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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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IN RE: NATIONAL PRESCRIPTION) Case No.
OPIATE LITIGATION) 1:17-MD-2804
APPLIES TO ALL CASES) Hon. Dan A. Polster
-----x

VIDEOTAPED DEPOSITION OF GARY L. BOGGS

WASHINGTON, D.C.

THURSDAY, JANUARY 17, 2019

9:07 A.M.

Pages: 1 - 429
Reported by: Leslie A. Todd

1 Deposition of GARY L. BOGGS, held at the law
2 offices of:

3

4

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Pursuant to notice, before Leslie Anne Todd,

14

Court Reporter and Notary Public in and for the

15

District of Columbia, who officiated in

16

administering the oath to the witness.

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C O N T E N T S

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EXAMINATION OF GARY L. BOGGS

PAGE

3

By Mr. Hawal

17, 387

4

By Mr. Rafferty

266

5

By Mr. Stanner

353

6

7

E X H I B I T S

8

(Attached to transcript)

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MCKESSON-BOGGS DEPOSITION EXHIBITS

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1 P R O C E E D I N G S

2 -----

3 THE VIDEOGRAPHER: We are now on the
4 record. My name is Daniel Holmstock. I'm the
5 videographer for Golkow Litigation Services.
6 Today's date is January 17th, 2019. The time on
7 the video screen is 9:07 a.m.

8 This video deposition is being held at
9 the law offices of Covington & Burling LLP at One
10 City Center, 850 10th Street, Northwest, in
11 Washington, D.C., in the matter of In Re:
12 National Prescription Opiate Litigation, pending
13 before the United States District Court for the
14 Northern District of Ohio, Eastern Division.

15 Our deponent today is Mr. Gary Boggs.
16 Counsel will be noted on the
17 stenographic record for appearances.

18 The court reporter is Leslie A. Todd,
19 who will now administer the oath to the witness.

20 GARY L. BOGGS,

21 and having been first duly sworn,

22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. HAWAL:

1 Q Good morning, Mr. Boggs.

2 A Good morning.

3 Q Please tell us your full name.

4 A Gary Lee Boggs.

5 Q Mr. Boggs, you've given depositions
6 before?

7 A I have.

8 Q Approximately how many times?

9 A Dozens of times throughout my career.

10 Q All right. You understand that you're
11 testifying as if you would be in front of a judge
12 and a jury this morning?

13 A I do.

14 Q All right. What have you done to
15 prepare yourself for this deposition today?

16 A I've had meetings with counsel in
17 preparation for it.

18 Q How many meetings?

19 A There was about four.

20 Q All right. And how long were those
21 meetings? How much time total did you spend with
22 counsel?

23 A I didn't keep track of it. I mean it
24 was four days.

1 Q Approximately.

2 A Approximately six, seven hours a day
3 times four.

4 Q And have you reviewed any deposition
5 transcripts that have been taken in this case of
6 other witnesses?

7 A I have not.

8 Q Okay. What is your current position
9 with McKesson?

10 A I am Vice President of Regulatory
11 Affairs and Compliance.

12 Q And how long have you had that position?

13 A Since August of last year.

14 Q And can you tell me what your job
15 responsibilities are or a description of what --
16 what you do, what your role is?

17 A Sure. I'm responsible for overseeing
18 the controlled substance monitoring program at
19 McKesson for the independent small, medium chain
20 pharmacies, hospitals, veterans, government
21 accounts, and overseeing a team that implements
22 that program across the United States.

23 Q Who do you report to?

24 A I report to Barbara Rowland, who is the

1 senior vice president of Regulatory Affairs and
2 Compliance.

3 Q And prior to the current position that
4 you hold, what position did you have at McKesson?

5 A I was a senior director of Regulatory
6 Affairs for the East region.

7 Q And over what period of time did you
8 hold that position?

9 A From late November of 2013 until August
10 of 2018.

11 Q And is that when you started with
12 McKesson, in late 2013?

13 A In late November 2013, yes.

14 Q And what was your job responsibility as
15 senior director of Regulatory Affairs for the East
16 region?

17 A It's similar to what it is now, except I
18 covered only half of the United States, the
19 eastern half of the United States.

20 Q Would I understand your job
21 responsibility to have been, for the entire time
22 that you've been with McKesson, to see to it that
23 McKesson complies with the federal laws and
24 regulations which exist in an effort to prevent

1 the diversion of controlled substances outside of
2 the legal framework or legal channels?

3 MR. STANNER: Object to the form.

4 THE WITNESS: I believe that that's part
5 of the responsibilities, yes.

6 BY MR. HAWAL:

7 Q As I understand it, before you joined
8 McKesson in 2013, you were an employee of the Drug
9 Enforcement Administration, the DEA?

10 A I was.

11 Q All right. Over what period of time
12 were you with the DEA?

13 A From approximately June of 1985 until
14 the end of June 2012.

15 Q And starting in June of 1985, I'm going
16 to ask you to take us through what positions you
17 held with the DEA. Can you tell us what your
18 position was when you first started and what your
19 responsibilities were?

20 A Sure, I'd be happy to.

21 I became a special agent with the Drug
22 Enforcement Administration in 1985, was
23 transferred from Orlando, Florida, to Detroit. I
24 was a special agent in the Detroit office until

1 about March of 1999, when I was promoted to a
2 group supervisor in Detroit. I --

3 Q Excuse me, if I can interrupt for a
4 minute.

5 Up through March of 1999, did you have
6 any responsibilities in dealing with manufacturers
7 or distributors of controlled substances?

8 A Not very much, no. Very little.

9 Q So you stopped at March of 1999. Can
10 you continue and take us forward with your
11 positions with the DEA.

12 A Sure. I was a group supervisor
13 beginning around March of 1999. I oversaw as a
14 group supervisor two or three different units.
15 Then I was a unit chief, also in Detroit, over the
16 special services section.

17 I was then transferred to headquarters
18 here in the District in 2003. I was a unit chief
19 in the Office of Special Intelligence. Was then
20 promoted in January of 2006 to be the executive
21 assistant in the Office of Diversion Control, and
22 I held that position until I retired from the DEA
23 in June of 2012.

24 Q All right. And as executive assistant

1 in the division of -- what -- what was that again?

2 What --

3 A At the time it was called the Office of
4 Diversion Control. It's now the Diversion Control
5 Division.

6 Q And what were your responsibilities in
7 that position?

8 A My responsibilities were, I would sort
9 of say like a chief of staff to the person
10 overseeing that section. We had day-to-day
11 responsibilities for the implementation of the
12 regulatory aspect of the Controlled Substances
13 Act, overseeing the DEA registrants that were
14 authorized to handle controlled substances.
15 That's essentially it.

16 Q And the DEA registrants that you're
17 referring to would be wholesalers like McKesson?

18 A That's one example of them.

19 Q Another would be manu- --

20 (Interruption by counsel on the phone.)

21 Q Another would --

22 MR. HAWAL: Can we please have people on
23 the phone mute their lines?

24 (A discussion was held off the record.)

1 MR. HAWAL: Yeah, let's go off the
2 record.

3 THE VIDEOGRAPHER: The time is 9:15 a.m.
4 We're going off the record.

5 (Resolving technical difficulties.)

6 THE VIDEOGRAPHER: The time is 9:20 a.m.
7 We're back on the record.

8 MR. HAWAL: Bill Hawal for plaintiffs.

9 MR. RAFFERTY: Troy Rafferty for
10 plaintiffs.

11 MR. WOLFE: Evan Wolfe, technical
12 support, for plaintiffs.

13 MS. KASWAN: Beth Kaswan for plaintiffs
14 in the Massachusetts state action.

15 MR. LIVINGSTON: Scott Livingston for
16 Defendant HPC.

17 MR. BUSHUR: Joseph Bushur for Cardinal
18 Health.

19 MR. PERRY: Stan Perry of Reed Smith for
20 AmerisourceBergen.

21 MR. SATIN: Michael Satin for Miller &
22 Chevalier on behalf of Gary Boggs.

23 MS. MONAGHAN: Meghan Monaghan from
24 Covington & Burling on behalf of McKesson.

1 MR. STANNER: Andrew Stanner of
2 Covington & Burling on behalf of McKesson.

3 MR. HAWAL: Folks on the phone, can you
4 please identify yourselves?

5 MR. WIENER: This is Seth Wiener from
6 Arnold & Porter for Endo and PAR defendants.

7 MS. WINCKEL: Emilie Winckel from
8 O'Melveny for Janssen and J&J.

9 MR. BRODSKY: Richard Brodsky from Jones
10 Day for Walmart.

11 MS. ROSENTHAL: Amanda Rosenthal --

12 MR. HAWAL: One at a time, please.

13 THE REPORTER: Amanda --

14 MS. ROSENTHAL: Rosenthal.

15 MR. HAWAL: For whom?

16 MS. ROSENTHAL: C&R Pharmacy.

17 MR. HAWAL: Anyone else?

18 MS. LIFTON: Diane Lifton, Hughes
19 Hubbard, for UCB.

20 THE REPORTER: Can you repeat your name,
21 please?

22 MS. LIFTON: Diane Lifton, L-I-F-T-O-N.

23 THE REPORTER: Thank you.

24 BY MR. HAWAL:

1 Q Mr. Boggs, before we went off the
2 record, I believe that you mentioned that you
3 joined DEA's Office of Diversion Control in
4 January of 2006; is that correct?

5 A That's correct, yes.

6 Q And were you -- in that position, were
7 you responsible for interacting with wholesalers
8 and manufacturers of controlled substances?

9 A I was.

10 Q And was part of your job responsibility
11 to ensure that they were complying with the
12 Controlled Substances Act and federal laws and
13 regulations relating to controlled substances?

14 A It was.

15 Q All right. And was your direct
16 supervisor Mr. Rannazzisi?

17 A He was.

18 Q And how long was he your direct
19 supervisor?

20 A The entire -- from 2000 -- January 2006
21 till I retired in June of 2012.

22 Q Before you became an employee of
23 McKesson in late 2013, was there a period of time
24 that you were a consultant for McKesson?

1 A I consulted for McKesson just for a
2 couple of times prior to becoming an employee of
3 McKesson, yes.

4 Q And over what period of time did that
5 occur?

6 A It would have been, I believe, around
7 the summer of 2013, on and off a couple of times.

8 Q And what did -- what was your role --
9 what did you -- what were you doing or what were
10 you asked to do as a consultant for McKesson?

11 A I was asked to look at the Regulatory
12 Affairs program that they had. I was asked to
13 provide some training. I was asked to speak at a
14 couple of different conferences that McKesson had
15 put on for other folks outside of McKesson.

16 Q And who at -- who at McKesson recruited
17 you or retained you to be a consultant?

18 A Don Walker.

19 Q Did you know Don Walker prior to that
20 time? Were you acquainted with him in any way?

21 A I might have -- in my capacity at DEA,
22 may have been at a meeting that he was at, but
23 other than that, I did not know him.

24 Q And who was it that encouraged you or

1 recruited you as an employee to join McKesson in
2 2013?

3 MR. STANNER: Objection. Form.

4 THE WITNESS: They advertised a
5 position, and I talked to Don Walker about it.

6 BY MR. HAWAL:

7 Q When you were with the DEA, did you
8 always try to fairly and accurately set forth the
9 policies and positions of the DEA in your
10 communications with pharmaceutical distributors
11 and their trade association, HDMA?

12 MR. SATIN: Mr. Boggs, I'm going to
13 instruct you not to answer that question to the
14 extent doing so would require you to disclose
15 information you acquired while you were at DEA --
16 at the DEA, to the extent that information is not
17 public and part of your official responsibilities
18 and duties.

19 BY MR. HAWAL:

20 Q Will you answer the question, sir?

21 A I -- I did not receive clearance from
22 the government to speak while I was there, so I
23 don't believe that I can answer that question.

24 Q Is it your position that your

1 interactions with various distributors is in some
2 way confidential information?

3 MR. SATIN: Objection. Sir, it's not
4 his decision to make.

5 MR. HAWAL: I under- --

6 MR. SATIN: It's the government's
7 decision to make, so it's not a question for him.
8 He doesn't have authorization to speak. The
9 government can't be here. So he can't provide
10 those answers until the government gives him
11 clearance to do so.

12 MR. HAWAL: Well, the government -- the
13 government's position, as I understand it and as
14 was expressed at the time of a conference with the
15 court, is that if there is information that was in
16 the public domain, that the witness is permitted
17 to provide answers to those kinds of questions.

18 Is that -- is your understanding
19 different?

20 MR. SATIN: If it is public information,
21 that's correct. Your question, as I understood
22 it, was not calling for just public information.

23 BY MR. HAWAL:

24 Q Well, sir, what is your understanding

1 of -- of what HDMA was?

2 A HDMA is a trade association for
3 manufacturers and distributors.

4 Q And is it your understanding that the
5 HDMA had periodic meetings where representatives
6 of various pharmaceutical distributors of
7 controlled substances would attend?

8 MR. SATIN: You may answer that question
9 to the extent doing so would not require you to
10 disclose non-public information that you acquired
11 during the course of your employment.

12 THE WITNESS: It's my understanding that
13 they would have those types of meetings, yes.

14 BY MR. HAWAL:

15 Q And those meetings would also be
16 attended by employees or representatives of HDMA,
17 the trade association?

18 MR. STANNER: Object to the form of the
19 question. Vague, time frame.

20 THE WITNESS: Could you be more
21 specific?

22 BY MR. HAWAL:

23 Q During the time that you were with the
24 Office of Diversion Control, would meetings that

1 would be attended by pharmaceutical manu- --
2 pharmaceutical distributor representatives also be
3 attended by employees or representatives of HDMA?

4 A They may have, and other times they may
5 not have.

6 Q Did you attend such meetings?

7 MR. SATIN: Mr. Boggs, I'm going to
8 instruct you not to answer that question for the
9 same reasons we expressed earlier.

10 MR. HAWAL: The HDMA would indicate --
11 attendance at meetings of HDMA would indicate that
12 that's public information. There's -- there's
13 nothing that's confidential about HDMA as it
14 relates to Mr. Boggs, is there?

15 MR. SATIN: I don't know.

16 The instruction to Mr. Boggs is,
17 Mr. Boggs, to the extent he believes that it was
18 public information, he can answer it. To the
19 extent the information -- he's revealing
20 information that's not public, he can't.

21 BY MR. HAWAL:

22 Q Mr. Boggs, when you attended meetings
23 with the HDMA, did you consider those -- that
24 information to be generally public?

1 A I did not, no.

2 Q In terms of your work with the Office of
3 Diversion Control, did you attend public meetings
4 where you set forth the positions of the DEA -- of
5 the DEA with respect to maintaining appropriate
6 obligations under the Controlled Substances Act?

7 A I believe that I did speak at some
8 public conferences about the Drug Enforcement
9 Administration and the regulatory requirements.

10 Q And its positions with regard to the
11 obligations of wholesalers like McKesson to
12 maintain appropriate legal obligations with
13 respect to avoiding the diversion of controlled
14 substances?

15 A In some form of that, yes.

16 Q And would those be meetings in which or
17 presentations in which HDMA members and/or
18 representatives of drug wholesalers like McKesson
19 would also be in attendance at?

20 A I don't recall whether or not any of
21 those representatives were in attendance or not.

22 Q When you were with the Office of
23 Diversion Control, were you required to know what
24 the legal obligations of pharmaceutical

1 distributors were with regard to their compliance
2 with federal laws and regulations?

3 MR. SATIN: Objection.

4 Mr. Boggs, don't answer that question to
5 the extent it would require you to disclose
6 non-public information that you have obtained in
7 the course of your work at DEA.

8 BY MR. HAWAL:

9 Q Do you -- do you refuse to answer, sir?

10 A I am -- do not want to break the law, so
11 I don't -- I have not been cleared to answer
12 non-public information.

13 Q Well, sir, do you have knowledge about
14 the substance of the Controlled Substances Act?

15 MR. SATIN: To the extent that knowledge
16 comes from your time at the DEA, don't answer
17 that.

18 If you want to ask him about his time at
19 McKesson and his knowledge of those laws, you may
20 do so.

21 THE WITNESS: I -- from my time at
22 McKesson, I am aware of what some of the
23 regulatory obligations are, yes.

24 BY MR. HAWAL:

1 Q Were those regulatory obligations that
2 you became aware of when -- since you've been with
3 McKesson, were they the same obligations that
4 existed prior to that time as -- as to the period
5 of time that you were with the DEA?

6 MR. SATIN: That question necessarily
7 calls for his knowledge when he was at DEA, so
8 object.

9 Don't answer that question.

10 MR. STANNER: Object to the form.

11 THE WITNESS: For the most part, I
12 believe they are. There have been some recent
13 legislative changes to some of the regulatory
14 obligations.

15 BY MR. HAWAL:

16 Q The regulatory obligations that apply to
17 distributors of controlled substances were created
18 with the Controlled Substances Act in 1970; is
19 that correct?

20 A Approximately that time, yes.

21 Q And up until the time of recent changes
22 in the law as a result of Congressional action,
23 have the obligations under the Controlled
24 Substances Act been fairly consistent and uniform

1 since 1970?

2 MR. STANNER: Objection to the form.

3 THE WITNESS: To the best of my
4 knowledge, the regulatory obligations as written
5 in the 21 CFR have not changed.

6 BY MR. HAWAL:

7 Q Are you familiar with the Distributor
8 Initiative Program?

9 MR. SATIN: To the extent that your
10 knowledge comes from your time with the DEA, don't
11 answer that question.

12 THE WITNESS: I am familiar with the
13 Distributor Initiative in general, yes.

14 BY MR. HAWAL:

15 Q And are you familiar with the purpose of
16 the Distributor Initiative Program?

17 A I don't believe that I'm cleared to
18 answer that question.

19 Q What is your understanding as to when
20 the opioid crisis was first appreciated in the
21 United States?

22 A I believe that it began approximately
23 three decades ago.

24 Q And is it your understanding that the

1 opioid crisis since that time has consistently
2 worsened in terms of its effect on individuals as
3 well as communities and governmental entities in
4 the United States?

5 MR. STANNER: Object to the form.

6 THE WITNESS: I believe that that is an
7 accurate representation.

8 BY MR. HAWAL:

9 Q Were you aware that Mr. Rannazzisi sent
10 a letter to all distributors in the United States
11 on September 27th, 2006?

12 MR. SATIN: Objection to the extent that
13 calls for --

14 THE REPORTER: I'm sorry, Counsel, can
15 you speak up a little bit?

16 MR. SATIN: Yeah, I'm sorry.

17 Objection to the question.

18 And I instruct Mr. Boggs not to answer
19 that question insofar as it requires him to
20 disclose information about his time when he was at
21 the DEA.

22 THE WITNESS: I'm aware that that --
23 that letter's -- that the distributors have that
24 letter, yes.

1 BY MR. HAWAL:

2 Q All right. And what is your
3 understanding as to the purpose of
4 Mr. Rannazzisi's letter?

5 MR. SATIN: Objection.

6 Mr. Boggs, don't answer that question.

7 MR. HAWAL: Counsel, we've already taken
8 Mr. Boggs' deposition and he answered questions
9 about that letter in some detail earlier this
10 year. Is it your position that something has
11 changed since his last deposition?

12 MR. SATIN: Yes, I've spoken to the
13 government -- I spoke to Mr. Bennett yesterday,
14 and he made very clear that he should not be
15 answering questions about his time at the DEA for
16 information that is non-public and as part of his
17 official duties without authorization from the
18 government.

19 So I wasn't at that hearing, but I can
20 tell you that Mr. Boggs does not have
21 authorization to do that.

22 MR. HAWAL: Let's take a break.

23 THE VIDEOGRAPHER: The time is
24 9:35 a.m., and we're going off the record.

1 (Recess.)

2 THE VIDEOGRAPHER: The time is 9:53 a.m.

3 We're back on the record.

4 (Plaintiffs' Exhibit No. 1 was

5 marked for identification.)

6 BY MR. HAWAL:

7 Q Mr. Boggs, I'm going to hand you what

8 we've marked as Plaintiffs' Exhibit 1.

9 Plaintiffs' Exhibit 1 is the

10 September 27th, 2006 Department of Justice, Drug

11 Enforcement Administration letter to McKesson,

12 correct?

13 A It is. It's a generic letter. I

14 don't -- I don't know if this specific one was to

15 McKesson.

16 Q And since you've joined McKesson, have

17 you seen this letter since you've joined McKesson?

18 A I have.

19 Q And do you know since you've joined

20 McKesson that this letter was sent to every

21 distributor by Mr. Rannazzisi in September of

22 2006?

23 MR. STANNER: Object to the form.

24 THE WITNESS: I believe that that's

1 correct, yes.

2 BY MR. HAWAL:

3 Q All right. In fact, in the first
4 paragraph, Mr. Rannazzisi indicates that this
5 letter is being sent to every commercial entity in
6 the United States registered with the Drug
7 Enforcement Administration to distribute
8 controlled substances, correct?

9 A You've read that correctly, yes.

10 Q All right. And you know since you've
11 seen this letter that Mr. Rannazzisi, his
12 intention was to reiterate to the distributors,
13 including McKesson, the responsibilities of
14 controlled substance distributors in view of the
15 prescription drug abuse problem in our nation --
16 our nation currently faces, correct?

17 MR. STANNER: Object to the form.

18 THE WITNESS: I believe you would have
19 to ask him about his intention. I --

20 BY MR. HAWAL:

21 Q Well, when was the first time that you
22 saw this letter?

23 MR. SATIN: Objection, pursuant to
24 Touhy.

1 THE REPORTER: Pursuant to?

2 MR. STANNER: Touhy, T-U-O-H-Y, I
3 believe is the correct spelling.

4 MR. STANNER: T-O-U. O-U.

5 MR. SATIN: T-O-U-H-Y.

6 THE WITNESS: I'm sorry, I don't know
7 that I can answer that question.

8 BY MR. HAWAL:

9 Q How long have you been aware that
10 controlled prescription drugs, that their abuse is
11 a serious and growing health problem in the United
12 States?

13 MR. STANNER: Object to the form.

14 THE WITNESS: I know that prescription
15 drug abuse has been around for decades and
16 decades.

17 BY MR. HAWAL:

18 Q And you know that it continually
19 worsened over time?

20 MR. STANNER: Object to the form.

21 THE WITNESS: I believe that's correct,
22 yes.

23 BY MR. HAWAL:

24 Q Now, since you've joined McKesson, did

1 you know that distributors must be vigilant in
2 deciding whether a prospective customer can be
3 trusted to deliver controlled substances only for
4 lawful purposes?

5 MR. STANNER: Object to the form.

6 THE WITNESS: I can't speak for all
7 distributors. For -- for McKesson, I understand
8 that we have an obligation to maintain control.

9 BY MR. HAWAL:

10 Q And do you understand that that
11 responsibility is critical?

12 A I understand that --

13 MR. STANNER: Object to the form.

14 THE WITNESS: -- it's very important,
15 yes.

16 BY MR. HAWAL:

17 Q Mr. Rannazzisi in his letter in the
18 third paragraph in the last sentence indicated
19 that: "This responsibility is critical, as
20 Congress has expressly declared that the illegal
21 distribution of controlled substances has a
22 substantial and detrimental effect on the health
23 and general welfare of the American people."

24 Is it your understanding as a McKesson

1 employee that that is a true statement?

2 A I believe that that's a true statement,
3 yes.

4 Q And have you known since you joined
5 McKesson that, as Mr. Rannazzisi indicates in the
6 next paragraph: "Although most distributors are
7 already well aware of the following legal
8 principles, they are reiterated here as additional
9 background for this discussion"?

10 Did you know that he was reiterating
11 what distributors should have known as of 2006
12 based upon your work at McKesson?

13 MR. STANNER: Object to the form.

14 MR. SATIN: Objection that -- as I
15 understand the question, even though you're
16 asking as -- at McKesson, you're asking him to
17 talk about what he understood Mr. Rannazzisi --
18 I'm not pronouncing his name correctly -- but what
19 that gentleman was doing as of 2006.

20 So I would instruct you not to answer
21 that to the extent the answer requires you to
22 disclose information from that time period.

23 THE WITNESS: I -- you'd have to ask
24 his -- him what his intent was.

1 BY MR. HAWAL:

2 Q Let's go to page 2 of this letter.

3 In the second paragraph, Mr. Rannazzisi
4 says: "Even just one distributor that uses its
5 DEA registration to facilitate -- facilitate
6 diversion can cause enormous harm."

7 As an employee of McKesson with your --
8 based on your current knowledge, do you agree with
9 that statement?

10 A I -- I think that you would have to look
11 at the facts and circumstances of what -- whatever
12 the incident was and to the extent of whether or
13 not it was horrific or not.

14 Q Well, let's assume for the sake of my
15 question that a distributor fails to report
16 suspicious orders or block orders that are
17 suspicious and delivers them to a customer.

18 Do you believe, based upon your current
19 understanding of federal laws, regulations and how
20 the distribution of controlled substances work,
21 that just one distributor that facilitates
22 diversion can cause enormous harm?

23 MR. STANNER: Object to the form,
24 compound, vague.

1 THE WITNESS: I think the first part of
2 your statement was about failure to report a
3 suspicious order. That's a reporting requirement.
4 And it -- you may be assuming that that order was
5 shipped and maybe it wasn't shipped.

6 The other second part of that is
7 assuming that even if it was shipped, that it
8 somehow may or may not have been diverted.

9 BY MR. HAWAL:

10 Q Well, let's assume it was diverted. If
11 it was diverted, do you agree that that would
12 cause or could cause enormous harm?

13 MR. STANNER: Object to the form.

14 THE WITNESS: It depends on the facts
15 and circumstances. I mean you could have one
16 shipment that might be a hundred pills that could
17 be diverted -- that could be diverted and simply
18 cause some harm. Whether or not that's, quote,
19 enormous harm, I think is relevant to the fact of
20 the volume of what was shipped.

21 BY MR. HAWAL:

22 Q Well, so -- so in your -- in your
23 opinion, volume matters?

24 A It could matter. It depends on the

1 facts and circumstances.

2 Q Well, assuming sufficient volume
3 diverted into elicited channels, do you believe that
4 that could cause enormous harm as set forth in
5 Mr. Rannazzisi's letter?

6 MR. STANNER: Object to the form.

7 THE WITNESS: It could.

8 BY MR. HAWAL:

9 Q And what kind of harm would you
10 contemplate could be caused by diversion?

11 A If people illegally took it, they could
12 become addicted from it or any other consequences
13 associated with that.

14 Q Including harms to communities?

15 MR. STANNER: Object to the form.

16 THE WITNESS: I -- I wouldn't want to
17 speculate without more facts, and I -- you would
18 have to look at the facts and circumstances.

19 BY MR. HAWAL:

20 Q Well --

21 A I don't want to paint with a broad
22 brush.

23 Q Well, hypothetically, if diversion
24 occurs in sufficient quantities, do you agree,

1 based upon your understanding from your work at
2 McKesson in the diversion arena, that that can
3 cause harm to communities?

4 A It could cause harm in there. It
5 depends.

6 Q And could cause harm to governmental
7 agencies?

8 MR. STANNER: Object to the form.

9 THE WITNESS: I -- you'd have to be more
10 specific.

11 BY MR. HAWAL:

12 Q Well, increased costs for treatment of
13 individuals who are addicted, for example?

14 MR. STANNER: Object to the form.
15 Speculation.

16 THE WITNESS: That may be a consequence
17 of someone becoming addicted, that they need to
18 seek treatment. Whether or not that was directly
19 related to the diversion of that or something that
20 they had legitimately, I think you'd have to look
21 at the facts.

22 BY MR. HAWAL:

23 Q To -- in the -- continue on --
24 continuing on in Mr. Rannazzisi's letter in 2006,

1 he says: "The DEA regulations require all
2 distributors to report suspicious orders of
3 controlled substances."

4 Based upon your understanding of -- of
5 the federal laws and regulations as a McKesson
6 employee, is that a true statement?

7 A The regulations do require distributors
8 to build and operate a system to identify and
9 report suspicious orders.

10 Q And how long has that been the case?

11 A I believe --

12 MR. SATIN: Objection to the extent that
13 requires you to rely on your work when you were at
14 the DEA.

15 THE WITNESS: It's my understanding that
16 that was a regulation that was implemented with
17 the enactment of the Controlled Substances Act.

18 BY MR. HAWAL:

19 Q In 1970?

20 A Around that time frame, yes.

21 Q At -- from your work at McKesson, did
22 you know that at the time that this letter was
23 sent, the DEA was actively investigating McKesson
24 for violations of the Controlled Substances Act?

1 MR. STANNER: Objection to the form.

2 THE WITNESS: Could you -- could you
3 repeat the question?

4 BY MR. HAWAL:

5 Q Yes. As an employee of McKesson, do you
6 know that at the time this letter was sent, the
7 DEA and the DOJ was actively investigating
8 McKesson for violations of the Controlled
9 Substances Act for failing to maintain effective
10 controls against diversion of certain
11 pharmaceutical opioid products?

12 MR. SATIN: And objection.

13 You can't rely, though, on your time at
14 the DEA to answer that question, so it would only
15 be based on information you obtained while at
16 McKesson.

17 MR. STANNER: Object to the form, calls
18 for speculation.

19 THE WITNESS: I believe that that was
20 the case, yes.

21 BY MR. HAWAL:

22 Q Did you bring with you when you joined
23 McKesson your wealth of knowledge that you gained
24 as a DEA agent, and do you use that knowledge in

1 your current position and employment?

2 A I use my experiences gained from there,
3 yes.

4 Q I assume that's why McKesson retained
5 you, for your knowledge and experience as a DEA
6 agent. True?

7 A I think that that's partially accurate,
8 yes.

9 MR. HAWAL: Evan, can we bring up 910,
10 Bates, the second Rannazzisi letter.

11 (Plaintiffs' Exhibit No. 2 was
12 marked for identification.)

13 BY MR. HAWAL:

14 Q Mr. Boggs, I'm handing you what has been
15 marked as Exhibit 2 is a U.S. Department of
16 Justice, Drug Enforcement Administration letter to
17 McKesson Corporation, dated December 27th, 2007,
18 signed by Joseph Rannazzisi. Bates No.
19 MCKMDL00478910.

20 Have you seen this letter since you've
21 left the DEA?

22 A The copy that I have is not a complete
23 document. Only -- only one page.

24 MR. STANNER: Oh, sorry. What -- some

1 of these look like they're double-sided. This one
2 is not. The actual exhibit is not.

3 MR. HAWAL: Well, can you peel that off?

4 MR. STANNER: I can. Lucky break.

5 BY MR. HAWAL:

6 Q Have you seen this letter since you've
7 left the DEA?

8 A I have.

9 Q And Mr. Rannazzisi apparently in
10 December of 2007 thought it was necessary to send
11 McKesson and other distributors a second reminder
12 of their legal obligations under the Controlled
13 Substances Act and federal regulations.

14 MR. SATIN: Object --

15 BY MR. HAWAL:

16 Q True?

17 MR. SATIN: Objection.

18 Do not answer that question.

19 MR. STANNER: Object to the form.

20 BY MR. HAWAL:

21 Q The first paragraph of the letter
22 indicates that: "The purpose of this letter is to
23 reiterate the responsibilities of controlled
24 substance manufacturers, distributors -- and

1 distributors to inform DEA of suspicious orders in
2 accordance with 21 CFR 1301.74(b)."

3 Is it your understanding that that
4 obligation exists today based upon your work at
5 McKesson?

6 A It is.

7 Q And existed as far back as 1970?

8 A That's correct.

9 Q And according to Mr. Rannazzisi, the DEA
10 regulations require all manufacturers and
11 distributors to report suspicious orders of
12 controlled substances.

13 That's a true statement, accurate?

14 A That's what the regulation requires,
15 yes.

16 Q And he goes on to say: "It specifically
17 requires that a registrant," quote, "design and
18 operate a system to disclose to the registrant
19 suspicious orders of controlled substances," close
20 quote.

21 Is it your understanding that that's an
22 accurate statement?

23 A That's what the regulation says, yes.

24 Q And he goes on to say: "The regulations

1 clearly indicates that it is the sole
2 responsibility of the registrant to design and
3 operate such a system."

4 Do you agree with that statement?

5 A That's what the regulation requires,
6 yes.

7 Q He goes on in the next paragraph to say
8 that: "The regulation also requires that the
9 registrant inform the local DEA division office of
10 suspicious orders when discovered by the
11 registrant," and he emphasized the words "when
12 discovered."

13 Is that an accurate statement as to what
14 the regulations require?

15 A I believe that's what the regulations
16 require, yes.

17 Q And he goes on to say in that paragraph:
18 "Registrants are reminded that their
19 responsibility does not end merely with the filing
20 of a suspicious order report. Registrants must
21 conduct an independent analysis of suspicious
22 orders prior to completing a sale to determine
23 whether the controlled substances are likely to be
24 diverted from legitimate channels."

1 Is that an accurate statement --

2 MR. STANNER: Object --

3 BY MR. HAWAL:

4 Q -- based upon your work at McKesson?

5 MR. STANNER: Object to the form.

6 Vague.

7 THE WITNESS: I don't know that that's
8 specifically in the regulation.

9 BY MR. HAWAL:

10 Q Well, do you agree that that's an
11 accurate statement?

12 MR. STANNER: Object to the form.

13 THE WITNESS: I believe that part of
14 McKesson's regulatory program encompasses due
15 diligence that we conduct on our customers.

16 BY MR. HAWAL:

17 Q In the next paragraph he goes on to say
18 that: "The regulation specifically states that
19 suspicious orders include orders of an unusual
20 size, orders deviating substantially from a normal
21 pattern, and orders of an unusual frequency."

22 Is that a fair and accurate statement?

23 A I believe that is what the regulations
24 require.

1 Q And he goes on to say that: "The size
2 of an order alone, whether or not it deviates from
3 a normal pattern, is enough to trigger the
4 registrant's responsibility to report the order as
5 suspicious."

6 Do you agree with that statement as
7 being accurate?

8 MR. STANNER: Object to the form.

9 THE WITNESS: I believe that that could
10 be part of the analysis in determining whether or
11 not the order is of unusual size or deviating
12 substantially from a pattern or unusual frequency.

13 BY MR. HAWAL:

14 Q As a -- as a McKesson employee, do you
15 believe that that is one of the responsibilities
16 of a distributor in -- in terms of performing its
17 due diligence?

18 MR. STANNER: Object to the form, vague.

19 THE WITNESS: I believe our
20 responsibility is to design and operate a system
21 to disclose suspicious orders as defined in the
22 regulations.

23 BY MR. HAWAL:

24 Q Well, do you believe that an order that

1 deviates from a normal pattern should trigger a
2 responsibility to determine whether the order is
3 suspicious?

4 MR. STANNER: Object to the form.

5 THE WITNESS: That is one of the
6 definitions of "a suspicious order" under the
7 regulations.

8 BY MR. HAWAL:

9 Q On page 2 of this letter in the second
10 paragraph, Mr. Rannazzisi states: "Daily, weekly
11 or monthly reports submitted by a registrant
12 indicating," quote, "excessive purchases," close
13 quote, "do not comply with the requirement to
14 report suspicious orders, even if the registrant
15 calls such reports suspicious order reports."

16 Do you agree that that is an accurate
17 statement as you understand it from your work at
18 McKesson?

19 MR. STANNER: Object to the form.

20 THE WITNESS: Well, it depends on what
21 those orders were that were contained in the --
22 what they -- what's defined as "an excessive
23 order." An excessive order could be an order of
24 unusual size, frequency or pattern, and therefore

1 would be a suspicious order as defined under the
2 regulations.

3 BY MR. HAWAL:

4 Q In the next paragraph, he says:

5 "Lastly, registrants that routinely report
6 suspicious orders, yet fill these orders without
7 first determining that the order is not being
8 diverted into other than legitimate medical,
9 scientific and industrial channels may be failing
10 to maintain effective controls against diversion."

11 Do you agree that that is an accurate
12 statement as set forth by Mr. Rannazzisi?

13 MR. STANNER: Object to the form.

14 THE WITNESS: The -- at my time at
15 McKesson, my understanding is that a registrant
16 such as distributors have an obligation to
17 maintain effective controls against diversion.

18 BY MR. HAWAL:

19 Q And so you agree that that's an accurate
20 statement?

21 MR. STANNER: Object to the form.

22 Vague, "accurate."

23 THE WITNESS: I think it describes, at
24 least in part, what could be a review or a due

1 diligence that is conducted to determine whether
2 or not something might be diverted.

3 BY MR. HAWAL:

4 Q Are you -- do you disagree with that
5 statement?

6 A I don't know that I disagree with it.
7 I -- I understand what our obligations are under
8 the regulations.

9 Q You're aware of, since you joined
10 McKesson, that McKesson prior to 2010 was not
11 complying with its obligations to main- --
12 maintain effective controls to prevent diversion
13 of controlled substances; mainly -- namely, opioid
14 pills into the illegal marketplace?

15 MR. SATIN: Mr. Boggs, to answer that
16 question, you can only rely on information you
17 learned at -- while at McKesson.

18 MR. STANNER: Object to the form.

19 THE WITNESS: Could you repeat the
20 question?

21 BY MR. HAWAL:

22 Q Yes. Since you've joined McKesson, have
23 you become aware that prior to 2010, McKesson was
24 not complying with its obligations to maintain

1 effective controls to prevent the diversion of
2 controlled substances?

3 MR. STANNER: Object to the form.

4 MR. SATIN: Same instruction.

5 THE WITNESS: It was my understanding
6 that they were not necessarily reporting
7 suspicious orders.

8 BY MR. HAWAL:

9 Q You're aware that in May of 2008,
10 McKesson entered into a settlement agreement and
11 signed a memorandum of understanding or memorandum
12 of agreement with the U.S. Department of Justice
13 and the DEA whereby McKesson agreed to pay a fine
14 of \$13.25 million for failing to maintain
15 effective controls against diversion of certain
16 controlled substances at various of its
17 distribution centers in the United States?

18 MR. STANNER: Object to the form.

19 THE WITNESS: I'm aware of that
20 settlement, that that settlement agreement
21 happened.

22 (Plaintiffs' Exhibit No. 3 was
23 marked for identification.)

24 MR. HAWAL: Andrew.

1 MR. STANNER: I'm sorry.

2 BY MR. HAWAL:

3 Q Mr. Boggs, I handed you what's been
4 marked as Exhibit 3. It is a document marked --
5 Bates stamped MCKMDL00536478. It is a Settlement
6 and Release Agreement and Administrative
7 Memorandum of Agreement, which is dated May 2nd,
8 2008.

9 You've seen this document previously?

10 A Not since my time at McKesson, no.

11 Q Well, did you see this document when
12 your deposition was taken this past summer? Do
13 you recall that?

14 A No, I don't recall.

15 Q In any event, you're aware that this
16 agreement was executed between the Department of
17 Justice and McKesson?

18 A I do.

19 Q And if we look at page 10 of this
20 document, it's a document that was signed by
21 various individuals, including John Hammergren,
22 president of McKesson Corporation, and Donald
23 Walker, senior vice president.

24 A I see that.

1 MR. STANNER: Sorry. The Bates number
2 is MCKMDL00536487. The page numbers jump around.

3 BY MR. HAWAL:

4 Q Mr. Hammergren is the president of
5 McKesson today?

6 A He is not.

7 Q When did he stop being president of
8 McKesson?

9 A I don't know.

10 Q Well, can you give me an approximation?

11 A I can't.

12 Q Don Walker is still with McKesson?

13 A He is not.

14 Q When did he leave McKesson?

15 A Maybe a year after I was hired by
16 McKesson, approximately.

17 Q On page 3 of this document, at the very
18 top, "McKesson was alleged to have failed to
19 maintain adequate controls against the diversion
20 of controlled substances on or prior to
21 December 31st, 2007, at all distribution
22 facilities operated, owned or controlled by it."

23 Do you see that?

24 A I do.

1 Q And paragraph 4, it says that "McKesson
2 was alleged to have failed to detect and report
3 suspicious orders of controlled substances."

4 Is it your understanding that this was
5 the basis for this settlement resulting in
6 McKesson agreeing to make changes to its diversion
7 control efforts and to pay a fine of \$13.25
8 million?

9 MR. STANNER: Object to the form, vague,
10 compound.

11 THE WITNESS: I believe that that's what
12 it says in the document, yes.

13 BY MR. HAWAL:

14 Q And if you look at the terms and
15 conditions below that where McKesson assumed --
16 did McKesson assume certain obligations as a
17 result of this settlement with the Department of
18 Justice and the DEA?

19 A That's what it says in the document,
20 yes.

21 Q Well, did you know that that was in fact
22 true as a result of your employment with McKesson?

23 MR. STANNER: Objection. Form.

24 THE WITNESS: Only inasmuch as what's in

1 the document.

2 BY MR. HAWAL:

3 Q As a result of this settlement, McKesson
4 agreed to maintain a compliance program designed
5 to detect and prevent diversion of controlled
6 substances as required under the CSA, the
7 Controlled Substances Act, and applicable DEA
8 regulations, and then it goes on to indicate that
9 McKesson would establish thresholds for controlled
10 substances.

11 Is it your understanding that that was
12 part of the obligations assumed by McKesson as a
13 result of the settlement?

14 A That's what it says on the document,
15 yes.

16 Q And the document also indicates that
17 McKesson would have its employees be trained in
18 the detection of suspicious orders. True?

19 A That's correct.

20 Q And required McKesson to not only
21 identify orders that are suspicious but report
22 those suspicious orders to the DEA. True?

23 MR. STANNER: Object to the form, vague.

24 THE WITNESS: That's correct.

1 BY MR. HAWAL:

2 Q As an employee of McKesson, did you --
3 would you expect that McKesson would take this
4 obligation seriously?

5 MR. STANNER: Object to the form.

6 THE WITNESS: Since my time at McKesson,
7 I've seen nothing more than them taking their
8 regulatory obligations seriously.

9 BY MR. HAWAL:

10 Q Well, was it your -- would it be your
11 expectation that by virtue of Mr. Walker and
12 Mr. Hammergren signing this settlement agreement
13 with the DEA, that it would in fact take the
14 obligations that it is said to have assumed on
15 page 3 as being taken seriously?

16 MR. STANNER: Object to the form,
17 speculation.

18 THE WITNESS: I assume that to be
19 correct.

20 BY MR. HAWAL:

21 Q At this point in time in 2008, would it
22 be fair to say that the opioid crisis in the
23 United States was exploding?

24 MR. STANNER: Object to the form,

1 characterization, vague, speculation.

2 MR. SATIN: And objection to the extent
3 you're relying on your official work at the DEA,
4 don't answer with respect to that work.

5 THE WITNESS: I don't know that I can
6 answer that question.

7 BY MR. HAWAL:

8 Q Well, sir, I mean, were you -- you
9 weren't living in a DEA bubble in 2008, were you?
10 Were you paying attention to what was in the news
11 media and in various forms, whether it be print
12 or -- or television?

13 A I was paying attention to my duties and
14 responsibilities at the Drug Enforcement
15 Administration.

16 Q Were you also aware that in the public
17 domain, by virtue of media reports, that it was
18 prominently identified in this time period that
19 the opioid epidemic was exploding in the United
20 States?

21 MR. STANNER: Object to the form.

22 THE WITNESS: I know that there were
23 media articles about the opioid epidemic during
24 that time frame.

1 (Plaintiffs' Exhibit No. 4 was
2 marked for identification.)

3 MR. HAWAL: Andrew.

4 I'm going to use the ELMO.

5 BY MR. HAWAL:

6 Q Mr. Boggs, I'm handing you what has been
7 marked as Plaintiffs' Exhibit 4. It's a 2000 --
8 May of 2002 report of the United States General
9 Accounting Office, entitled "Prescription drugs:
10 State monitoring programs provide useful tools to
11 reduce diversion."

12 Have you seen this document?

13 MR. STANNER: So let me just clarify,
14 Mr. Hawal. What this appears to be is the cover
15 page --

16 MR. HAWAL: Yeah.

17 MR. STANNER: -- and an excerpt. This
18 is not the entire document. Is that accurate?

19 MR. HAWAL: It's not the entire
20 document.

21 MR. STANNER: I just want to clarify.

22 MR. HAWAL: I'm just going to ask him
23 about one paragraph on page 2. Well, actually,
24 it's on page 4.

1 BY MR. HAWAL:

2 Q On the back of page 4, on the back of
3 the exhibit that you have in front of you, it
4 states: "The diversion and abuse of prescription
5 drugs are associated with incalculable costs to
6 society in terms of addiction, overdose, death and
7 related criminal activities. DEA has stated that
8 the diversion and abuse of legitimately produced
9 controlled pharmaceuticals constitute a
10 multibillion dollar illicit market nationwide."

11 Based upon your experience, sir, is that
12 a true statement?

13 MR. STANNER: Object to the form.

14 MR. SATIN: And object to the extent
15 it's calling for you to rely on your time at the
16 DEA. You can't rely on that information or
17 disclose information about your work at the DEA in
18 answering that question.

19 THE WITNESS: I think that the abuse of
20 prescription drugs can cause societal issues and
21 costs associated with societal issues.

22 BY MR. HAWAL:

23 Q So you do agree with that statement?

24 MR. STANNER: Same objection.

1 THE WITNESS: Without some of -- seeing
2 some of the specific facts in terms of the
3 adjectives used in there, I don't know whether I
4 can necessarily agree. I mean, it is a horrific
5 problem in this country.

6 (Counsel conferring.)

7 (Plaintiffs' Exhibit No. 5 was
8 marked for identification.)

9 BY MR. HAWAL:

10 Q Mr. Boggs, I have handed you a
11 PowerPoint presentation marked as Exhibit 5. Have
12 you -- have you seen this document before?

13 MR. SATIN: We have a document that's
14 got writing in the middle. I don't know if that's
15 a mistake.

16 MR. HAWAL: No, it's -- it's the way it
17 was produced to me. I don't know whose writing it
18 is, but...

19 MR. STANNER: Do you -- I see there's no
20 Bates number on it. Are you aware of where it was
21 produced from?

22 MR. HAWAL: I -- I am not. And I don't
23 have one with the Bates number on it.

24 BY MR. HAWAL:

1 Q In any event, this is a document that
2 was apparently created by someone at the DEA.

3 Would that be a fair statement, Mr. Boggs?

4 A I don't recall --

5 MR. STANNER: Object. Form and
6 foundation.

7 THE WITNESS: I don't recall ever seeing
8 this document before.

9 BY MR. HAWAL:

10 Q Well, are you familiar with the logos on
11 the front page of the document as being logos
12 associated with the Department of Justice and the
13 DEA, Office of Diversion Control?

14 A They certainly appear to be, yes.

15 Q Are you aware that such a meeting or
16 that such meetings occurred in approximately 2009,
17 2008, and the late 2000s?

18 MR. SATIN: Objection.

19 MR. STANNER: Vague. Object to the form
20 of the question.

21 MR. SATIN: And objection pursuant to
22 Touhy. Do not answer that.

23 BY MR. HAWAL:

24 Q Let's go to slide number 3 under "Closed

1 System."

2 MR. HAWAL: Do you have it?

3 (Counsel conferring.)

4 BY MR. HAWAL:

5 Q Slide number 3. Do you see that the --
6 where it identifies "Closed System," it's reported
7 that: "When a registrant fails to adhere to their
8 responsibilities, those violations represent a
9 danger to the public and jeopardize the closed
10 system of distribution."

11 Is it your understanding that as a
12 result of your work at McKesson that that is in
13 fact an accurate and true statement?

14 MR. STANNER: Object to the form.

15 THE WITNESS: I would agree that if --
16 potential failure to adhere to a responsibility
17 could have some consequences to that.

18 BY MR. HAWAL:

19 Q And on slide number 15, this slide
20 reiterates what the obligations of a wholesaler,
21 including McKesson, is and has been since 1970 as
22 it relates to suspicious orders. True?

23 MR. STANNER: Object to the form of the
24 question and foundation.

1 THE WITNESS: It appears to reiterate
2 the regulation, yes.

3 BY MR. HAWAL:

4 Q And on the next page, slide 16, is it
5 your understanding that the reporting of a
6 suspicious order does not relieve a distributor,
7 including McKesson, of the responsibility to
8 maintain effective controls against diversion?

9 MR. STANNER: Object to the form.

10 THE WITNESS: It's my understanding that
11 the distributors, you know, have an obligation to
12 identify and report suspicious orders, and they
13 have an obligation to maintain effective controls
14 against diversion.

15 BY MR. HAWAL:

16 Q Well, other than just reporting
17 suspicious orders, what other obligations does a
18 distributor have such as McKesson?

19 A I --

20 MR. STANNER: Objection. Calls for a
21 narrative.

22 THE WITNESS: A distributor has a
23 responsibility to maintain security over those
24 controlled substances that are maintained in our

1 warehouses, and we do that through cages and
2 vaults and security cameras, and all of those
3 kinds of things, while those things are in our
4 possession.

5 BY MR. HAWAL:

6 Q Well, we're talking about reporting
7 suspicious orders.

8 What other -- in the context of this
9 statement, what other responsibilities does a
10 distributor have which is not relieved simply by
11 reporting suspicious orders?

12 MR. STANNER: Objection to the form of
13 the question.

14 THE WITNESS: Well, what the -- what
15 you're asking me about is the -- maintaining
16 effective controls against diversion, and part of
17 that is the security while they're in our
18 possession.

19 BY MR. HAWAL:

20 Q Well --

21 A That's maintaining effective controls
22 against diversion.

23 Q Well, let's -- let's just focus for a
24 moment on suspicious orders as this slide is

1 focused on.

2 What other responsibilities does a
3 distributor like McKesson have beyond simply
4 reporting a suspicious order as it relates to
5 suspicious orders?

6 MR. STANNER: Object to the form of the
7 question.

8 THE WITNESS: Well, there's two
9 different obligations that we have. Under the --
10 as you're asking me about suspicious orders, our
11 obligation under the regulation is to design and
12 operate a system to identify suspicious orders,
13 and then report those to the DEA. That's the
14 regulation for suspicious orders.

15 BY MR. HAWAL:

16 Q Well, does that obligation also require
17 McKesson to not ship a suspicious order unless
18 it's determined through due diligence that it is
19 unlikely to be diverted into illicit channels?

20 MR. STANNER: Objection to the form.

21 THE WITNESS: I'm not -- I'm not aware
22 anywhere in the regulation it says not to ship.
23 It says to identify and report suspicious orders.

24 BY MR. HAWAL:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 BY MR. HAWAL:

13 Q Or at least should have been, true?

14 MR. STANNER: Object to the form of the
15 question.

16 THE WITNESS: The regulation does not
17 say that we -- to block. It says to identify and
18 report suspicious orders.

19 BY MR. HAWAL:

20 Q Since you have joined McKesson, have you
21 gone back to determine what McKesson was doing
22 with suspicious orders in 2007 and 2008?

23 A I have reviewed some materials of the
24 type of programs that they had back in -- around

1 2007, 2008.

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

■ [REDACTED]

10 BY MR. HAWAL:

11 Q Is it your understanding that that was
12 one of the responsibilities that McKesson assumed
13 and undertook as part of its settlement with the
14 Department of Justice and DEA in 2008?

15 MR. STANNER: Objection. Speculation.

16 THE WITNESS: I think it was part of the
17 program that they created in response to the
18 settlement agreement.

19 BY MR. HAWAL:

20 Q In other words, McKesson made an
21 obligation or set forth an obligation and
22 undertook an obligation, according to that
23 settlement agreement, that it would not only
24 report suspicious orders to the DEA but it would

1 block and not ship suspicious orders. True?

2 MR. STANNER: Objection to the form,
3 speculation.

4 THE WITNESS: I believe as part of the
5 settlement agreement that they were required or
6 agreed to design and operate a system to identify
7 suspicious orders and that they would block those
8 orders.

9 BY MR. HAWAL:

10 Q And if we look at slide number 17, the
11 DEA, according to this PowerPoint presentation,
12 indicated that it cannot advise a distributor of
13 an order if an order is legitimate or not.

14 Do you see that?

15 A I see that, yes.

16 Q Has the DEA ever -- since you've been at
17 McKesson, has the DEA ever advised you or anyone
18 at McKesson otherwise than what is stated here?

19 MR. STANNER: Object to the form to the
20 extent he knows about anyone at McKesson.

21 THE WITNESS: I don't recall having any
22 discussions with anyone from DEA regarding that
23 specific area.

24 BY MR. HAWAL:

1 Q Well, has DEA ever, to your knowledge,
2 informed McKesson that -- anything contrary to
3 what is stated here, that the DEA cannot advise a
4 distributor if an order is legitimate or not?

5 MR. SATIN: And objection to the extent
6 it's asking you for your knowledge while at the
7 DEA, don't answer that.

8 THE WITNESS: Since I've been at
9 McKesson, I have not seen anything from DEA that
10 even -- that discusses this topic.

11 BY MR. HAWAL:

12 Q Is it your understanding as an employee
13 of McKesson that it is McKesson's obligation, and
14 not the DEA's, to determine whether an order is
15 suspicious or legitimate?

16 MR. STANNER: Object to the form.

17 THE WITNESS: I understand the
18 regulation requires businesses such as McKesson to
19 design and operate a system that discloses to
20 McKesson or other distributors suspicious orders
21 as defined in the regulation.

22 BY MR. HAWAL:

23 Q Is it your understanding as an employee
24 of McKesson that it would not be appropriate

1 simply to accumulate suspicious order reports and
2 provide them in bulk to the DEA at the end of the
3 month, but, rather, the obligation is to report to
4 the DEA suspicious orders when they are
5 discovered?

6 MR. STANNER: Object to the form of the
7 question.

8 THE WITNESS: I'm not sure if there are
9 certain parts of agreements that McKesson may have
10 entered into with the DEA to report things in a
11 different manner other than what the regulation
12 requires. It's my understanding a regulation
13 requires us to report them when discovered.
14 However, I know that there are certain terms of
15 the settlement agreements that somewhat deviate a
16 little bit from the way the regulation is actually
17 written.

18 BY MR. HAWAL:

19 Q Well, are you aware of any document
20 which sets forth an agreement between the DEA and
21 McKesson whereby it would be appropriate for
22 McKesson to accumulate suspicious order reports
23 and send them in bulk at the end of a month as
24 opposed to sending them when they are discovered?

1 MR. STANNER: Object to the form.

2 THE WITNESS: I don't know if there's
3 any agreements between McKesson and the DEA prior
4 to my employment that would have deviated from the
5 regulatory requirements.

6 BY MR. HAWAL:

7 Q As a result of your work with McKesson,
8 are you aware of any published calculations or
9 algorithms from the DEA which informed McKesson or
10 other distributors as to what orders should or
11 should not be reported to the DEA as suspicious?

12 A Not that I'm aware of.

13 Q According to slide number 17, the DEA is
14 identifying to distributors that it is their
15 responsibility to determine which orders are
16 suspicious and make their own decisions as to
17 whether or not those orders should be shipped or
18 not. True?

19 MR. STANNER: Objection. Vague, "true."

20 THE WITNESS: I understand under the
21 regulations that the distributor has an obligation
22 to design and operate a system that discloses to
23 the distributor those suspicious orders.

24 BY MR. HAWAL:

1 Q Since you've been with McKesson, have
2 you ever seen or are you aware of the DEA ever
3 endorsing any calculations that were proposed by
4 any distributor, including McKesson, that would be
5 used to identify suspicious orders?

6 A Are you asking strictly for calculations
7 or --

8 Q Yes, sir. For -- for calculations that
9 were created or proposed by DEA on how a
10 distributor like McKesson should be used to
11 identify suspicious orders.

12 MR. STANNER: Object to the form.

13 THE WITNESS: Not calculations
14 specifically. There's been other guidance, but
15 not calculations.

16 BY MR. HAWAL:

17 Q As to your knowledge, as a result of
18 your work at McKesson, has the DEA ever published
19 or provided any kind of advisory opinion to
20 McKesson or any other distributor regarding the
21 identify -- identification of an order as
22 suspicious?

23 A I believe that --

24 MR. STANNER: Object -- I'm going to

1 object that it's vague. Sorry.

2 THE WITNESS: I believe if you read the
3 September 27th, 2006 letter from Joe Rannazzisi
4 that you have submitted as an exhibit to me today,
5 it puts forth some red flags that might be used in
6 understanding of -- identification of certain
7 suspicious orders.

8 BY MR. HAWAL:

9 Q All right. So you're referring to
10 Exhibit 1, the third page of Mr. Rannazzisi's
11 letter of September 27th, 2006?

12 A That's correct.

13 Q And in that letter, Mr. Rannazzisi is
14 identifying examples of circumstances that might
15 be indicative of diversion of controlled
16 substances?

17 A I am.

18 Q And in paragraph 1, it says: "Ordering
19 excessive quantities of a limited variety of
20 controlled substances while ordering few, if any,
21 other drugs might be an indication that diversion
22 is occurring."

23 A That's correct.

24 Q And the same would be true with bullet

1 point number 2: "Ordering a limited variety of
2 controlled substances in quantities that are
3 disproportionate to non-controlled medications
4 that are ordered"?

5 A That's correct.

6 MR. STANNER: Object -- I'm going to
7 object to the form of that question. It's unclear
8 if you're asking if that's true or if that's what
9 it says.

10 MR. HAWAL: I'm asking whether or not --
11 well, let me clarify. Obviously it's what he
12 said.

13 BY MR. HAWAL:

14 Q But do you agree that that's an accurate
15 statement?

16 A I believe that it -- it is a red flag or
17 could be indicative of diversion, depending on the
18 facts and circumstances.

19 Q And number 3: "Ordering excessive
20 quantities of a limited variety of controlled
21 substances in combination with excessive
22 quantities of lifestyle drugs." Is that an
23 accurate statement?

24 A That's what it says, yes.

1 Q And what are lifestyle drugs? Opioids?

2 A No, I believe in the context of this,
3 lifestyle drugs may be things like testosterone
4 or -- you know, steroids or Viagra, or other
5 things like that, hair growth drugs. People have
6 different definitions of "lifestyle drugs."

7 Q And number 4: "Ordering the same
8 controlled substances from multiple distributors"
9 could be another red flag?

10 A That's what --

11 MR. STANNER: Object to the form of the
12 question.

13 BY MR. HAWAL:

14 Q So Mr. -- and then -- and then
15 Mr. Rannazzisi has ten additional bullet points.
16 I will not read them all. But he is attempting to
17 provide distributors with examples of what they
18 should be looking for as part of their due
19 diligence with regard to their responsibility to
20 identify suspicious orders and not ship them.

21 MR. SATIN: Object --

22 BY MR. HAWAL:

23 Q True?

24 MR. SATIN: Objection. Do not answer

1 that question as it calls for the witness to
2 testify about what Mr. Rannazzisi's intentions
3 were back then.

4 BY MR. HAWAL:

5 Q Well, would it be a fair interpretation
6 of these various bullet points that Mr. Rannazzisi
7 set forth on this page as setting forth examples
8 of what distributors should look for in
9 determining whether an order is suspicious and
10 shouldn't be shipped? Would that be fair -- as
11 you sit here, a fair understanding of what this
12 document is intended to express?

13 MR. STANNER: Objection to the form of
14 the question.

15 MR. SATIN: Objection as well. Do not
16 answer that.

17 BY MR. HAWAL:

Age Group	Percentage
18-29	80%
30-49	78%
50-64	75%
65+	72%
75+	68%

A horizontal bar chart with 20 rows. Each row consists of a small square icon on the left and a gray bar of varying length and position. The bars represent different data points or categories.

Row	Icon	Bar Start (approx. %)	Bar End (approx. %)
1	■	0	30
2	■	0	90
3	■	0	15
4	■	15	100
5	■	0	88
6	■	0	58
7	■	25	100
8	■	0	75
9	■	25	100
10	■	0	30
11	■	0	95
12	■	0	15
13	■	0	30
14	■	15	85
15	■	0	95
16	■	0	95
17	■	0	58
18	■	25	75
19	■	0	50
20	■	15	50

21 MR. STANNER: Object to the form of the
22 question.

23 BY MR. HAWAL:

24 Q Have you -- did you see these letters

1 before they went out, these Rannazzisi letters,
2 both Exhibit 1 and Exhibit 2?

3 MR. STANNER: Object to the form of the
4 question.

5 You're referring to 2006?

6 MR. HAWAL: Yes, and 2007.

7 MR. SATIN: Objection. Don't answer
8 that question.

9 BY MR. HAWAL:

10 Q Did you have any role in drafting these
11 letters?

12 MR. SATIN: Objection. Don't answer
13 that question.

14 BY MR. HAWAL:

Age Group	Percentage
18-29	90%
30-49	88%
50-64	85%
65+	82%

- [illegible]

[illegible]

■ [REDACTED]

■ [REDACTED]

3 Q Was it ever contemplated -- well, strike
4 that.

5 Since you've come to McKesson, did you
6 ever learn from the DEA that McKesson could
7 delegate to its customers the legal obligations to
8 prevent diversion of controlled substances?

9 MR. STANNER: Objection to the form.

10 THE WITNESS: I'm not sure I understand
11 your question.

12 BY MR. HAWAL:

13 Q Well, we've talked about all the legal
14 obligations that a company like McKesson has as a
15 distributor to put in place a system to prevent
16 the diversion of controlled substances, right?

17 A That's correct.

18 Q Have you ever been told by the DEA that
19 McKesson could delegate that legal obligation to
20 its pharmacy customers?

21 A It -- the pharmacy customers have their
22 own regulatory obligations to maintain effective
23 controls against diversion.

24 Q So does -- does McKesson delegate its

1 obligations under the Controlled Substances Act to
2 customers?

3 A Not to my knowledge.

4 Q I mean, it's McKesson's obligation, and
5 it's a non-delegable obligation, true?

6 A Well, all registrants have various
7 obligations. So, you know, it's not just
8 McKesson's obligation and nobody else's.

9 Q I under- --

10 A Other registrants have obligations as
11 well.

12 Q I understand. But my question relates
13 to the obligations of a distributor like McKesson.
14 It has certain legal obligations, correct?

15 A That's correct.

16 Q You agree with me that McKesson cannot
17 delegate its obligations to a customer?

18 A I agree.

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17 Q And do you agree that the law requires
18 that suspicious orders that are blocked should not
19 be shipped to the customer?

20 MR. STANNER: Sorry. Object to the form
21 of the question. "Orders that are blocked" --

22 MR. HAWAL: Yes, sir.

23 MR. STANNER: -- "should not be
24 shipped."

1 THE WITNESS: I don't know that there's
2 anything in the law that there's a requirement to
3 not ship that -- that. It says to identify and
4 report suspicious orders.

5 BY MR. HAWAL:

6 Q So is it your position that a suspicious
7 order that is identified and reported can be
8 shipped or should be shipped?

9 MR. STANNER: Object to the form of the
10 question, calls for a legal conclusion.

11 THE WITNESS: Under our program, we
12 block the order and don't ship it.

13 BY MR. HAWAL:

Age Group	I don't know	I would not	I would	I would definitely
18-24	10%	10%	40%	40%
25-34	10%	10%	50%	30%
35-44	10%	10%	40%	40%
45-54	10%	10%	30%	50%
55-64	10%	10%	20%	60%
65-74	10%	10%	10%	70%
75-84	10%	10%	10%	70%
85+	10%	10%	10%	70%

23 BY MR. HAWAL:

24 Q You -- you do that in order to

1 effectively exercise your responsibility to avoid
2 diversion, true?

3 MR. STANNER: Object to the form.

4 THE WITNESS: Well, I think, first of
5 all, you have to understand that a suspicious
6 order does not equal a suspicious customer. It's
7 important to understand that -- that orders that
8 are simply of unusual size or deviate
9 substantially from a normal pattern or -- or
10 frequency are simply that. Without further
11 knowing more about the customer, you don't know
12 whether or not that suspicious order is destined
13 for diversion or not. And we know from our
14 experience, more likely than not that that's not
15 the case.

16 So to focus on a suspicious order is
17 actually misplaced. If you really want to know
18 whether or not diversion may or may not occur, you
19 need to know the customer. And so part of our
20 program is extensive due diligence so that we know
21 our customer.

22 BY MR. HAWAL:

1. **Identify the main components of the system.**
 2. **Define the scope and objectives of the project.**
 3. **Develop a detailed project plan.**
 4. **Implement the project plan.**
 5. **Monitor and evaluate the project progress.**
 6. **Communicate and report on the project status.**
 7. **Close the project and evaluate the results.**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 BY MR. HAWAL:

14 Q I understand that there are all sorts of
15 possibilities, but the fact of the matter is that
16 suspicious orders can lead you to a suspicious
17 customer, true?

18 MR. STANNER: Object to the form of the
19 question.

20 THE WITNESS: Without knowing more about
21 the customer, no.

22 BY MR. HAWAL:

23 Q Well --

24 A There is an assumption that a suspicious

1 order equals a suspicious customer, and that's
2 very misplaced from my experience.

3 Q Well, sir, are you talking about --
4 what -- what experience are you talking about?

5 A My experience at McKesson.

6 Q Well, the -- the terms and conditions of
7 the 2008 settlement agreement called for the
8 identification and detection of suspicious orders.
9 True?

10 A That's correct.

11 Q Do you see one word in this entire
12 agreement that talks about suspicious customers?

13 MR. STANNER: I'm sorry, which exhibit
14 are you referring to?

15 MR. HAWAL: I don't remember the -- the
16 number, but it's the settlement release and
17 agreement.

18 MS. MONAGHAN: This is 3.

19 MR. STANNER: Obviously we don't want
20 him to read the entire thing here.

21 MR. HAWAL: Yeah, I don't.

22 BY MR. HAWAL:

23 Q Did you ever see anything in this
24 obligation that McKesson undertook in 2008 that

1 talks about anything other than suspicious orders
2 and the need to identify them and report them?

3 MR. STANNER: Object to the form of the
4 question, assumes facts.

5 THE WITNESS: It talks about maintaining
6 effective controls against diversion.

7 BY MR. HAWAL:

8 Q Mm-hmm. And I think we went through --

9 A Sure.

10 Q -- a number of times that
11 paragraph 1(a) identifies suspicious orders. And
12 by my count, it's three in that paragraph. And if
13 you go to paragraph (c), it again talks about
14 suspicious orders.

15 But nowhere do I see anything about
16 suspicious customers. Am I incorrect?

17 A I don't -- without reading the entire
18 document, I don't know that it speaks to it or
19 not. I'm not sure what your question is.

20 Q Well, if you would like to at -- you
21 know, during the course of the break to -- to read
22 the entire document and tell me where you find
23 suspicious customers, I'll be happy to allow you
24 to come back and correct -- correct me. Okay?

1 MR. SATIN: Counsel, I don't think he
2 can do that. If you want him to read this now and
3 give you an answer, he can do it. But he can't --
4 you can't ask him to do work outside of the
5 hearing. If you want an answer --

6 MR. HAWAL: Well, I can -- I can ask him
7 anything I'd like. I mean, we are going to be
8 taking breaks during -- and including a lunch
9 break, and if -- if you or McKesson's counsel
10 wants to assist the witness to identify suspicious
11 customers in this document, I would be happy to do
12 that as well.

13 BY MR. HAWAL:

14 Q As part of this settlement agreement,
15 did it -- does it appear to you that the DEA and
16 the Department of Justice expected McKesson to
17 provide its employees, including sales
18 representatives, with adequate training and
19 guidance on how to implement and obey this new
20 Controlled Substance Monitoring Program?

21 MR. STANNER: Object --

22 MR. SATIN: Objection -- sorry.
23 Objection. Do not answer that as it's asking for
24 what the DEA was intending.

1 BY MR. HAWAL:

2 Q You've read this -- you've read this
3 document previously, correct?

4 A I only -- I have not read it cover to
5 cover, no.

6 Q Well, is it your expectation as a
7 McKesson employee that McKesson's sales
8 representatives and Regulatory Affairs
9 representatives should have adequate training on
10 how to implement and effectively follow the
11 Controlled Substance Monitoring Program that
12 McKesson has created?

13 MR. STANNER: Object to the form.

14 THE WITNESS: I believe that that was
15 part of the settlement agreement for the -- for
16 the terms of the -- during the terms of the
17 settlement agreement.

18 BY MR. HAWAL:

19 Q And do you believe as a McKesson
20 employee that that should be an obligation that
21 McKesson should have followed and adhere to?

22 MR. STANNER: Object to the form.

23 THE WITNESS: I believe that it was part
24 of the agreement during the terms of the life of

- [illegible]

[illegible]

[illegible]

- [illegible]

[illegible]

20 BY MR. HAWAL:

21 Q As of 2011, did you make occasional
22 public statements expressing your frustration as a
23 DEA agent whereby you believed that certain
24 distributors were not following their obligations

1 under the law to prevent diversion of controlled
2 substances?

3 A I'm not sure that I agree with the
4 characterization of it being my frustration. I --
5 I'm sure that I -- during that time frame, I made
6 public statements on a variety of different
7 topics.

8 Q Well, did you make some public
9 statements that were critical of distributors with
10 respect to violating their obligations under the
11 law to prevent diversion of controlled substances?

12 A If you have a specific example that we
13 could talk about --

14 Q Well, we --

15 A -- I would be more than happy to. I --
16 I don't recall every --

17 Q You don't recall ever doing that?

18 A I don't recall every statement I made.

19 Q Do you recall making a statement to
20 USA Today which was published in 2012?

21 A During my time at DEA, I made dozens of
22 statements to the media. I don't recall off --
23 any one in particular.

24 MR. HAWAL: I think we're on Exhibit 6.

1 (Plaintiffs' Exhibit No. 6 was
2 marked for identification.)

3 MR. HAWAL: I'm going to use the ELMO.

4 BY MR. HAWAL:

5 Q Mr. Boggs, I'm handing you what has been
6 marked as Exhibit 6. Is an article that was in
7 the USA Today on February 28, 2012, where it says:
8 "DEA aims big to stem painkiller black market."
9 And then below that it says: "Cardinal Health
10 says it didn't look the other way."

11 Do you remember seeing this article at
12 or near the time that it came out?

13 A I don't recall it, no.

14 Q All right. If we go to -- I think it's
15 the fourth page, it attributes certain statements
16 to you. And the paragraph starts with: "'Within
17 the closed system, each license holder has
18 responsibilities to maintain control of the drugs
19 and keep them from getting to illegitimate
20 players,' DEA Special Agent Gary Boggs said."

21 First of all, is that an accurate
22 statement?

23 MR. STANNER: Object to the form, vague.

24 THE WITNESS: The registrants have a

1 legal obligation to maintain effective controls --

2 BY MR. HAWAL:

3 Q So it is --

4 A -- against diversion.

5 Q It is an accurate statement.

6 A I agree.

7 Q And do you deny having made that
8 statement to a USA Today reporter in that context?

9 A I don't.

10 Q Do you deny having a conversation with a
11 USA Today reporter about the subject of diversion
12 of controlled substances and distributors'
13 obligations?

14 A I do not.

15 Q Okay. And then it goes on to say:
16 "'The law requires distributors, such as Cardinal
17 Health, to have systems to detect suspicious
18 orders, which must then be reported to the DEA.
19 The Agency repeatedly warns distributors that the
20 size of an order alone triggers the distributors'
21 responsibility to report it to the DEA,' Boggs
22 said."

23 First of all, was that an accurate
24 statement?

1 MR. STANNER: Object to the form.

2 Accurate that it's there, or accurate that he said
3 it, or is the statement itself substantively
4 accurate?

5 THE WITNESS: I believe you read it
6 correctly.

7 BY MR. HAWAL:

8 Q Well, is it -- is it a true statement?

9 A It's a paraphrase of the regulation,
10 yes.

11 Q Again, do you have any reason to deny
12 having made that statement to a USA Today
13 reporter?

14 A I do not.

15 Q Then it says: "'Distributors must cut
16 sales to those drugstores with suspicious orders,
17 even if they have a valid DEA license,' he said."

18 Is that also a true statement?

19 MR. STANNER: Same objection.

20 THE WITNESS: I don't know that I agree
21 with the characterization of that. We have an
22 obligation to maintain effective controls against
23 diversion, and if that means stopping sales, that
24 could be, based upon the facts and circumstances,

1 the outcome.

2 BY MR. HAWAL:

3 Q And then it has a statement in
4 quotations: "If all those players involved are
5 either complicit or not doing their due diligence
6 correctly, that whole system comes tumbling down."

7 Do you disagree that you made that
8 statement?

9 A I don't.

10 Q And then below that it has further
11 statements attributable to you. It says:
12 "'Distributors can act more quickly than law
13 enforcement if they know something is wrong,'
14 Boggs said."

15 Do you have any reason to dispute having
16 said that statement?

17 MR. STANNER: Again, I'm going -- I'm
18 going to object to the foundation on all the
19 questions that are clearly paraphrases and not
20 quotations.

21 BY MR. HAWAL:

22 Q Do you agree -- do you have any reason
23 to disagree that you made such a statement or a
24 statement to that effect?

1 A I do not.

2 Q And then it goes on to say: "'We have
3 to investigate things in a different manner than a
4 company that can act on a suspicious order. We
5 have to meet constitutional and legal
6 requirements. They don't have to sell to
7 someone,' Boggs said. 'They have a moral
8 obligation as keepers of powerful and dangerous
9 substances to make sure those substances are used
10 for legitimate medical purposes.'"

11 Do you have any reason to dispute having
12 made those statements?

13 A I do not.

14 Q Looking at the context of these
15 statements and in terms of what this article is
16 reported to be about, would it be fair to say that
17 you as a DEA agent at the time were expressing
18 dissatisfaction or frustration with certain
19 distributors as to their failure to maintain
20 effective controls to prevent the diversion of
21 controlled substances?

22 MR. STANNER: Object to the form.

23 MR. SATIN: And I -- objection. I'm
24 objecting pursuant to Touhy.

1 I don't quite understand the question.
2 You can ask him about what he said but not why he
3 said it or what was going on at DEA at the time
4 that may have informed this statement.

5 MR. HAWAL: Counsel, this -- this is --
6 he clearly made a public statement, and I believe
7 that the Touhy requirements allow me to explore
8 the circumstances of this public statement. I
9 don't understand how you can object in the context
10 of what he says here.

11 MR. SATIN: So I -- I had a conversation
12 with the AUSA, Mr. Bennett, on this subject, and
13 while it's permissible to ask about the fact of
14 those public statements, but what is behind those
15 statements, the circumstances, the motives, the
16 background material, that is off-limits. That's
17 an issue you'll have to take up with the
18 government.

19 MS. KASWAN: We've been going quite a
20 while. Can we take a break?

21 MR. STANNER: The witness is fine, so
22 we're happy to keep going. Obviously, people
23 should feel free to use the restroom.

24 MS. KASWAN: I could use a break.

1 THE VIDEOGRAPHER: The time is
2 11:24 a.m. We're going off the record.

3 (Recess.)

4 THE VIDEOGRAPHER: The time is
5 11:41 a.m., and we're back on the record.

6 BY MR. HAWAL:

7 Q Mr. Boggs, continuing on with the
8 USA Today article that we've been discussing,
9 there's another statement that is attributable to
10 you, and it says: "'You can have the ostrich
11 approach. You can stick your head in the sand and
12 ignore blatant signs,' Boggs said."

13 And then it goes on to say: "This
14 company is sitting in a state that has been the
15 epicenter of the problem. It's no secret that the
16 drug of choice is oxycodone. I don't think you
17 have to be that strong of an investigator to put
18 two and two together," close quote.

19 Are those statements that you would have
20 made?

21 MR. STANNER: Object to the form of the
22 question, the word "attributable."

23 THE WITNESS: I -- I believe that
24 they're correct, yes.

1 BY MR. HAWAL:

2 Q Were these -- were these the kinds of
3 statements that are attributive -- attributed to
4 you in this article that you would have been
5 generally making during this frame?

6 MR. STANNER: Object to the form of the
7 question.

8 BY MR. HAWAL:

9 Q In 2012.

10 MR. STANNER: Same objection.

11 THE WITNESS: I don't know that I
12 understand your question when you say --

13 BY MR. HAWAL:

14 Q Well --

15 A -- "generally making."

16 Q Well, were these the kinds of statements
17 that you were generally making to individuals who
18 would have been inquiring about the opioid crisis
19 and certain distributors not living up to their
20 obligations under federal regulations?

21 MR. SATIN: Counsel, I'm sorry to
22 interrupt. Are you asking about statements he was
23 making --

24 MR. HAWAL: In the public domain.

1 MR. SATIN: -- in the public domain?

2 MR. HAWAL: Yes, sir.

3 THE WITNESS: This is a statement I made
4 in this particular article. I don't recall every
5 statement that I made during that time frame.

6 BY MR. HAWAL:

7 Q Let me ask you this: When you left DEA,
8 did you get some type of clearance from the DEA to
9 go work for McKesson?

10 A I believe that I was interviewed by
11 McKesson counsel on -- on that.

12 Q Well, I'm not so concerned about
13 McKesson's counsel. But did you seek clearance
14 from the DEA to go work for a distributor?

15 A I don't recall doing that, no.

16 Q So you don't have any type of written
17 agreement with the DEA that allowed you to go work
18 for McKesson?

19 A I do not.

20 Q Okay. So as far as you know, there were
21 no restrictions placed upon you by the DEA as to
22 what you could or could not communicate with
23 McKesson about as it relates to your pre, or --
24 prior employment with the DEA?

1 MR. STANNER: Object to the form of the
2 question.

3 THE WITNESS: I don't have any
4 restrictions that I'm aware of, no, other than
5 what we're talking about today.

6 MR. STANNER: Mr. Hawal, I think someone
7 on the phone is complaining about the microphones.

8 Can the people on the phone hear us?

9 (UNIDENTIFIED SPEAKER): It sounds like
10 the mics have been turned down a little bit. I
11 don't know if there's a way to adjust the volume.
12 We were fine before the break.

13 MR. STANNER: I think we just tried to
14 do that. Has there -- have you -- have you
15 noticed any change? We just tried -- we just
16 changed the volume.

17 (UNIDENTIFIED SPEAKER): No, not yet.

18 THE VIDEOGRAPHER: Do you hear anything
19 better now?

20 (UNIDENTIFIED SPEAKER): Yes. Much
21 better. Thank you.

22 MR. STANNER: Great. If people on the
23 phone could mute their phones, that would be very
24 helpful. Thanks.

1 (Plaintiffs' Exhibit No. 7 was
2 marked for identification.)

3 BY MR. HAWAL:

4 Q Mr. Boggs, I'm handing you what has been
5 marked as Plaintiffs' Exhibit 7, which is a
6 different article but also from 2012. And this
7 was published in Bloomberg Businessweek. The
8 title of the article is "American Pain: The
9 Largest U.S. Pill Mill's Rise and Fall." "There
10 were 335 million prescriptions for painkillers
11 written in 2011. Is it any wonder some of them
12 were from criminals?"

13 And my question is, do you recall being
14 interviewed by someone from Bloomberg Businessweek
15 at or around this time where you made certain
16 statements that were -- that appeared in this
17 article?

18 A I do not.

19 Q I'm going to put on the screen a
20 paragraph that has certain statements that are
21 attributable to you. And it says: "Gary Boggs,
22 Special Agent with the DEA's Office of Diversion
23 Control says, 'The cases that the DEA has brought
24 in recent years involved wholesalers knowingly

1 making enormous sales to customers that were
2 per se in violation of DEA rules. The notion put
3 out by HDMA that somehow or another the DEA is not
4 providing essential information to them is simply
5 not accurate,' says Boggs. 'It's a smoke screen.
6 It's a step out of desperation.'"

7 Do you remember making such statements
8 in 2012?

9 MR. STANNER: Object to the form,
10 compound. Vague if you're referring to the
11 quotation on the preceding sentence.

12 MR. HAWAL: Yes.

13 BY MR. HAWAL:

14 Q Do you -- do you remember making such
15 statement?

16 MR. HAWAL: I'm sorry?

17 MR. STANNER: I'm sorry, you said,
18 "Yes." Do you mean -- are you referring just to
19 the quotation --

20 MR. HAWAL: Yes.

21 MR. STANNER: -- or to the entire --

22 MR. HAWAL: Yeah, quotations.

23 THE WITNESS: I -- I don't recall making
24 them.

1 BY MR. HAWAL:

2 Q Were these statements that were
3 consistent with statements that you would have
4 been making at that time in the public domain?

5 A It appears a statement that I made for
6 this article.

7 Q Okay. And in -- in June of 2012, were
8 you still a DEA employee or had you retired as of
9 that time?

10 A I retired at the end of that month.

11 Q Okay. I'm going to hand you another
12 exhibit. I think we're at Exhibit 8.

13 (Plaintiffs' Exhibit No. 8 was
14 marked for identification.)

15 BY MR. HAWAL:

16 Q With regard to the statement that was in
17 the Bloomberg publication, you referred to HDMA.
18 HDMA is the trade association for pharmaceutical
19 wholesalers like McKesson and Cardinal and
20 AmerisourceBergen?

21 A It was formerly HDA -- or HDMA. Now
22 it's HDA. Yes, it is.

23 Q And you have attended HDMA meetings?

24 MR. SATIN: Are you asking about since

- [illegible]

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8 BY MR. HAWAL:

9 Q Well, would you agree with me that it
10 would be difficult to make improvements if one
11 didn't go back and determine where improvements
12 were necessary or needed?

13 MR. STANNER: Object to the form,
14 misstates the testimony.

15 THE WITNESS: I -- I think in some times
16 that's an opportunity to do that. I think other
17 times you have to take into consideration that,
18 you know, what may or may not have led to some
19 issues that, you know, many years ago was for a
20 different time and different type of diversion
21 scheme where the red flags may have been different
22 than what they are today.

23 So I want to make sure that I'm not
24 looking at things that are no longer valid in

1 today's environment, so I'm looking more forward
2 and what is today's thread, if you will, of
3 diversion, and how best that we can identify that.
4 Not necessarily looking retrospective to schemes
5 that are no longer a relevant factor.

6 BY MR. HAWAL:

7 Q Well, you would agree generally that if
8 one doesn't look at past mistakes, one won't learn
9 from their past mistakes. Is that true?

10 MR. STANNER: Object to the form of the
11 question.

12 THE WITNESS: I think that that's
13 generally a -- a solid thing.

14 (Plaintiffs' Exhibit No. 9 was
15 marked for identification.)

16 MR. HAWAL: Evan, 880.

17 BY MR. HAWAL:

18 Q Mr. Boggs, I've handed you what has been
19 marked as Plaintiffs' Exhibit 9, bearing Bates
20 stamp MCK-AGMS-0060000880.

1 Do you recall this PowerPoint
2 presentation?

3 A I do.

4 Q Did you have a chance to review this
5 when you were preparing for this deposition with
6 your counsel?

7 A I --

8 MR. STANNER: Objection to the extent it
9 calls for privileged information.

10 BY MR. HAWAL:

11 Q Did you review this?

12 A I've looked at this document, yes.

13 Q As part of your preparation for this
14 deposition?

15 A I did.

16 Q And this was prepared -- what does
17 "Olive Branch" mean?

18 A Olive Branch is where the McKesson's
19 national redistribution center is. It's Olive
20 Branch, Mississippi.

21 Q Okay. And this would have been prepared
22 after you left the DEA?

23 A It would.

24 Q Did it contain information that you

1 would have learned or become aware of when you
2 worked for the DEA?

3 A It did. It does.

4 Q Did you seek and obtain any clearance
5 from the DEA to make this presentation or put this
6 material together?

7 A I did not.

8 Q Now, when you reviewed this PowerPoint
9 presentation, did it appear to you to be correct
10 and accurate? Was there anything -- or was there
11 anything that stood out as being inaccurate or
12 that you deemed required correction?

13 A I --

14 MR. STANNER: You're asking -- I'm
15 sorry, Counsel, you're asking at the time it was
16 prepared or since then?

17 MR. HAWAL: No, when you -- when he
18 reviewed it in preparation for his deposition.

19 MR. STANNER: My mistake.

20 THE WITNESS: When I reviewed it, it
21 appeared to be an accurate representation of the
22 presentation that I gave.

23 BY MR. HAWAL:

[illegible]

[illegible]

1 use of prescription painkillers."

2 What did you mean by that statement?

3 A What I meant by that statement, which is
4 reflected in the -- the next slide, is an example
5 of a manufacturer who was involved in an
6 investigation or a settlement with the government
7 that was about the false or misleading of
8 OxyContin, which was specifically to Purdue
9 Pharma.

10 Q And the next page references Purdue
11 Pharma in a \$635 million fine that was imposed on
12 Purdue for misleading advertising about its
13 OxyContin product?

14 A That's correct.

15 Q And you -- you consider that to be one
16 of the causes of the opioid crisis in the United
17 States?

18 MR. STANNER: Object to the form of the
19 question.

20 THE WITNESS: I think it has a
21 contributing factor, yes.

22 BY MR. HAWAL:

23 Q And then the next page, you reference a
24 company, Cephalon, in a \$425 million fine, which

■ [REDACTED] [REDACTED]
■ [REDACTED]
■ [REDACTED]

4 BY MR. HAWAL:

5 Q So are you saying that you do not agree
6 that as greater amounts of opioid pills are
7 diverted into the illicit marketplace, that the
8 probability is that the number of addictions and
9 deaths will increase?

10 MR. STANNER: Same -- same objection. I
11 think it --

12 MR. HAWAL: I understand. All you have
13 to do is say, "Objection," Andrew.

14 MR. STANNER: Okay.

15 MR. HAWAL: That would be appreciated,
16 because the rules require no speaking objections.

17 MR. STANNER: I'm just trying to be
18 helpful.

19 BY MR. HAWAL:

20 Q Sir?

21 MR. HAWAL: I understand. Thank you.

22 THE WITNESS: I -- I think there is a
23 correlation between diversion and -- and
24 associated problems with diversion.

- [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- [REDACTED] [REDACTED]
- [REDACTED]
- [REDACTED] [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- ■ [REDACTED]
- ■ [REDACTED]

[illegible]

[illegible]

- [illegible]

A collection of 20 horizontal bars of varying lengths and positions, representing a data visualization. The bars are arranged in a list-like structure, with some bars starting at the left margin and others indented. The bars are solid black and vary in length, with some being very short and others spanning most of the width of the page. The bars are arranged in a way that suggests a hierarchical or grouped structure, with some bars appearing to be sub-items of others. The bars are arranged in a way that suggests a hierarchical or grouped structure, with some bars appearing to be sub-items of others.

21 Q Have you seen any studies or statistics
22 that reference the cost to communities, both
23 cities and counties and states, as it relates to
24 the economic impact of the opioid crisis?

1 MR. STANNER: Object to the form.

2 THE WITNESS: Not that I recall

3 specifically that, no.

4 BY MR. HAWAL:

Response	Percentage
Yes, the U.S. should take action to address climate change	85%
No, the U.S. should not take action to address climate change	15%

Age Group	Percentage
18-24	10%
25-34	20%
35-44	30%
45-54	25%
55-64	15%
65-74	10%
75-84	5%
85+	5%

Government	Percentage
Current government	85%
Previous government	15%

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 BY MR. HAWAL:

14 Q I mean, for example, if a small
15 community in a given state that has, you know, 600
16 adults -- you know, a population of 600 adults and
17 is getting hundreds of thousands of opioid pills
18 provided to one pharmacy in such a small
19 community, that would indicate to you an example
20 of an exorbitant amount of pills going to a
21 potentially suspicious customer. Fair?

22 A It could be, yes.

[REDACTED]

[REDACTED]

- [illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 BY MR. HAWAL:

10 Q I'm not -- I'm not saying automatically,
11 but generally speaking, would you agree that an
12 exorbitant amount going to a small community that
13 is also in the epicenter of diversion, that that
14 would be consistent with a greater degree of harm?

15 A I think it requires a greater -- you
16 know, more diligence to determine what's going on
17 and what the factors are there, and maybe it's
18 diversion or maybe there's a legitimate reason.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14 Q And these would be red flags that would
15 not have been first known in 2013, but would have
16 been red flags that distributors should have been
17 aware of for many years. True?

18 MR. STANNER: Object to the form.

19 THE WITNESS: I don't know that that's
20 necessarily the case. We're -- we're talking
21 about a couple of significant diversion schemes
22 that occurred at a period of time that have
23 never -- never happened before in this country.
24 So the red flags sometimes are very specific to

[illegible]

[illegible]

17 BY MR. HAWAL:

18 Q Well, it could have been an industry
19 practice earlier than that. There's nothing
20 unique about setting thresholds that coincides
21 with 2006 and 2007. True?

22 MR. STANNER: Object to the form.

23 THE WITNESS: It -- it's one methodology
24 to identify and report suspicious orders. There

The diagram consists of a vertical list of 15 items. Each item is represented by a small square icon to its left and a horizontal bar of varying length and position to its right. The bars are arranged in a way that suggests a sequence or hierarchy, with some bars starting at the same level and others indented further to the right. The bars are of different lengths, with some being very long and others being very short. The overall layout is clean and minimalist, using a light gray color for the bars and a white background.

18 MR. STANNER: Object to the form of the
19 question. Calls for speculation, hearsay,
20 foundation.

21 THE WITNESS: I don't agree with the
22 characterization of that. I think that the intent
23 is to make sure that we're clear and that there's
24 not a -- a way to misconstrue what's being written

1 so that someone -- a third party that may not know
2 anything about what transpired would -- would
3 understand it with -- with some clarity.

4 BY MR. HAWAL:

5 Q Well, let's go to the next highlighted
6 bullet point. It says: "Refrain from using the
7 word 'suspicious' in communications. Once
8 McKesson deems an order and/or customer
9 suspicious, McKesson is required to act. This
10 means all controlled substances sales to that
11 customer must cease, and the DEA must be
12 notified."

13 As a former DEA representative, does it
14 trouble you that McKesson is formally instructing
15 its employees to refrain from using the word
16 "suspicious" in communications because of the
17 obligation that follows identifying an order as
18 suspicious?

19 MR. STANNER: Object to the form of the
20 question on several bases. I'll avoid a lengthy
21 objection.

22 BY MR. HAWAL:

23 Q Does that trouble you, sir?

24 A I think with my understanding and

1 experience over the years is that -- and I think I
2 spoke about it earlier, is there is a -- often
3 misunderstanding that when we say "suspicious
4 order," that it's automatically a suspicious
5 customer.

6 And I think that over the years, I've
7 had a better appreciation for the fact that there
8 are many legitimate reasons why orders could be
9 placed why they are, and oftentimes the label
10 "suspicion" is misused in the context of how we
11 normally would think of that term. And I think
12 that being prudent in terms of when something is
13 suspicious needs to be more clearly defined and
14 understood of when we -- when we say "suspicious,"
15 that it is -- there is something suspicious about
16 it, and not just label that because that's the
17 definition in the regulation.

18 Q Well, or is this more consistent with
19 the public statements that you were making to the
20 publications that we identified earlier where you
21 were being critical of certain wholesalers in
22 terms of keeping their heads buried in the sand
23 like an ostrich with regard to their failure to
24 report suspicious orders and continue to ship to

1 customers that were suspicious?

2 MR. STANNER: Object to the form of the
3 question.

4 THE WITNESS: I don't think those
5 statements that I made correlate to what you're
6 referring to here in the document at all.

7 BY MR. HAWAL:

■ ■ [REDACTED]
■ [REDACTED]
■ ■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

15 Q Who were you criticizing in those
16 statements that you made to the USA Today and
17 Bloomberg News?

18 A I -- that's -- those statements were
19 made five or six years ago. I -- I don't even
20 recall that it was --

21 Q So you don't recall --

22 THE REPORTER: I need to get the rest of
23 the answer. "I don't even recall," and you said
24 something else.

1 THE WITNESS: That it was made -- that
2 those statements were made five or six years ago,
3 and I don't recall which specific distributor that
4 I was referring to or if I was just referring in
5 general -- generalities.

6 BY MR. HAWAL:

7 Q Well, the one article dealt specifically
8 with Cardinal. True?

9 MR. STANNER: Object. Vague. If you
10 want to point to an exhibit.

11 THE WITNESS: That's what the article
12 was.

13 BY MR. HAWAL:

14 Q Well --

15 A I don't know that my discussions with
16 that reporter was more general in the context of
17 them writing an article that related to Cardinal.

18 Q Well, would it be fair to characterize
19 those statements as being critical of certain
20 distributors in terms of their failures to monitor
21 suspicious orders and to do due diligence in terms
22 or preventing diversion?

23 MR. PERRY: Objection. Form.

24 THE WITNESS: I -- I would think that's

1 a fair statement, yes.

2 BY MR. HAWAL:

3 Q Now, after the 2008 settlement
4 agreement, you became aware when you were with
5 McKesson that McKesson was -- continued to be
6 under investigation by the DEA, correct?

7 MR. STANNER: Object to the form.

8 THE WITNESS: After I was employed by
9 McKesson?

10 BY MR. HAWAL:

11 Q Yes, sir.

12 A I understood that there was still a
13 settlement being negotiated between McKesson and
14 the government.

15 Q Well, did you become aware that rather
16 than improve and adhere to the promises and
17 obligations that were made by McKesson as a part
18 of that 2008 settlement, that the DEA and the
19 Department of Justice determined that McKesson had
20 a continuing systemic or companywide failure to
21 take meaningful steps to prevent diversion of
22 opioids?

23 MR. STANNER: Object to the form of the
24 question.

1 THE WITNESS: I don't know that I would
2 agree with the characterization of "systemic." I
3 don't recall anything in any of the documents that
4 there was systemic. There was agreements in the
5 settlement agreement that McKesson acknowledged
6 that at various times they had not reported
7 suspicious orders.

8 BY MR. HAWAL:

9 Q Well, did you recall that the
10 investigation that was conducted by the Department
11 of Justice made a determination that McKesson had
12 a systemic problem throughout the United States at
13 multiple distribution centers from 2008 forward?

14 MR. STANNER: Object to the form of the
15 question, misstates.

16 MR. SATIN: And objection -- objection
17 to the extent you're asking him for his -- his
18 answer as it relates to his work at the DEA as
19 opposed to what he learned while he was at
20 McKesson.

21 MR. HAWAL: I specifically asked what he
22 came to know as a result of his working at
23 McKesson.

24 THE WITNESS: I --

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8 BY MR. HAWAL:

9 Q When did you last see it?

10 A I looked at it briefly in some of the
11 preparation for this deposition. I didn't read it
12 cover to cover, but I -- I've seen it a couple
13 different times.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

18 Q Who was in charge of the distribution
19 center at Aurora from a Regulatory Affairs
20 standpoint during 2009, 2010 through 2013?

21 MR. STANNER: Objection. Speculation.

22 THE WITNESS: I believe it was Tom
23 McDonald.

24 BY MR. HAWAL:

1 Q Well, you weren't with McKesson when
2 this investigation was largely being conducted.
3 True?

4 A You asked me if I thought that this
5 represented indifference, and I'm --

6 Q Yes.

7 A -- saying that my time, my five years at
8 McKesson and talking to hundreds of people in
9 McKesson, I have not seen any evidence of
10 indifference to its regulatory obligations.

11 Q Well, this --

12 A And I don't know that it would have just
13 all of a sudden happened prior to that, but I
14 didn't -- I have not seen any evidence of
15 indifference.

16 MR. HAWAL: I'm going to move to strike
17 the answer as nonresponsive.

18 BY MR. HAWAL:

19 Q My question, sir, is you were not with
20 McKesson when this investigation was being
21 conducted in Aurora, Colorado. True?

22 MR. STANNER: Object to the form of the
23 question.

24 THE WITNESS: That's correct.

1 BY MR. HAWAL:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED] [REDACTED]

2 BY MR. HAWAL:

3 Q Would you expect that a diligent company
4 would want to investigate whether or not these
5 allegations were true or not?

6 MR. STANNER: Object to the form.

7 THE WITNESS: It's my understanding that
8 we have, and we have taken significant steps to
9 address these issues.

10 MR. HAWAL: I'm not -- move to strike as
11 nonresponsive.

12 BY MR. HAWAL:

13 ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[illegible]

1 BY MR. HAWAL:

2 Q In fact, McKesson agreed to pay a
3 \$150 million fine as a result of a settlement of
4 many of the allegations contained in this 23-page
5 letter. True?

6 MR. STANNER: Object to the form of the
7 question.

8 THE WITNESS: I don't think that's
9 accurate at all.

10 BY MR. HAWAL:

11 Q Well, do you --

12 A The civil penalties relates to
13 non-reporting of suspicious orders. There's no
14 other penalty -- civil penalty provision other
15 than that, and that's what -- the only way that
16 the dollars can be calculated --

17 Q Well, you --

18 A -- is related to failure to report a
19 suspicious order.

20 Q Were you involved in negotiating the
21 settlement between McKesson and the Department of
22 Justice?

23 A I was not.

24 Q And did McKesson accept responsibility

1 BY MR. HAWAL:

2 Q Did anyone at McKesson?

3 MR. STANNER: Objection. Calls for
4 speculation.

5 BY MR. HAWAL:

6 Q To your knowledge?

7 A We were looking at setting thresholds
8 for -- in today, since I've been with McKesson.

9 Q No, that's not my question, sir. My
10 question is, did anyone to your knowledge go back
11 and make a determination whether or not this
12 statement is true?

13 MR. STANNER: Same objection.

14 THE WITNESS: Not to my knowledge, no.

15 BY MR. HAWAL:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

- A horizontal bar chart titled "U.S. should take action to reduce greenhouse gas emissions." The y-axis lists age groups: 18-29, 30-49, 50-64, 65+, and "Don't know." The x-axis shows percentages from 0% to 100% in 10% increments. For each age group, there are two bars: a blue bar for "Men" and an orange bar for "Women." The data is as follows:

Age Group	Men (%)	Women (%)
18-29	85	85
30-49	80	80
50-64	85	85
65+	90	90
Don't know	10	10

[illegible]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

4 BY MR. HAWAL:

5 Q So the answer to my question is, yes --

6 THE REPORTER: I have looked at? I have
7 looked at?

8 MR. STANNER: Let him finish the
9 question -- answer.

10 Did you finish your answer?

11 THE WITNESS: I did.

12 MR. STANNER: Okay.

13 BY MR. HAWAL:

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

1 BY MR. HAWAL:

2 Q Was anyone reprimanded or fired or in
3 any way negatively impacted as a result of what
4 had been going on that resulted in McKesson paying
5 a \$150 million fine for its failure to effectively
6 follow the Controlled Substances Act?

7 MR. STANNER: Objection. Calls for
8 speculation.

9 THE WITNESS: It's my understanding that
10 the CEO, Mr. Hammergren, testified that someone
11 had been displaced from McKesson. I -- I'm not
12 privy to that information.

13 BY MR. HAWAL:

14 Q So you don't know who was in any way
15 fired or otherwise disciplined for the violations
16 that gave rise to the \$150 million penalty?

17 A I don't --

18 MR. STANNER: Objection to the form.

19 THE WITNESS: I'm sorry. I don't know
20 who that individual is or what other actions were
21 taken by senior management in the company. I --
22 I'm not privy to that.

23 BY MR. HAWAL:

■	[REDACTED]		
■	[REDACTED]		
■		[REDACTED]	[REDACTED]
■		[REDACTED]	[REDACTED]
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[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 BY MR. HAWAL:

14 Q What -- what states come to mind that
15 also were receiving large quantities of opioids
16 from McKesson that was significantly
17 disproportionate to the population?

18 MR. STANNER: Object to the form.

19 THE WITNESS: West Virginia comes to
20 mind in terms of some pharmacies that are in more
21 rural parts of the country with small populations.

22 BY MR. HAWAL:

23 Q Is that -- is that all, West Virginia
24 and Colorado?

1 A I haven't conducted a comprehensive
2 study to answer that question, but I -- I don't
3 know. I --

4 Q That's -- that's one of the red flags
5 that has long been identified as a potential
6 indicator of diversion?

7 A It is a red flag, yes.

8 Q Despite this \$150 million penalty or
9 settlement that McKesson agreed to pay for
10 violations of the laws and regulations relating to
11 diversion of controlled substances, you're aware
12 that many employees of the DEA were -- who were
13 involved in these investigations were profoundly
14 disappointed that the fine was not much higher and
15 that some McKesson executives were not charged
16 criminally?

17 MR. STANNER: Object to the form of the
18 question.

19 THE WITNESS: I'm not aware of that, no.
20 BY MR. HAWAL:

21 Q You've not -- have you ever watched any
22 of the "60 Minutes" segments on the opioid crisis
23 that contain interviews with your former
24 colleagues at DEA?

1 A I have seen one -- one of the "60
2 Minutes" segments, yes.

3 Q And do you recall that some of those
4 "60 Minutes" segments had interviews with your
5 former colleagues where they expressed significant
6 disappointment that McKesson received such a small
7 fine and that no one was held personally
8 responsible?

9 MR. STANNER: Object to the form of the
10 question.

11 THE WITNESS: I don't agree with the
12 characterization that it was a small fine. It's
13 the largest fine that the DEA has ever gotten,
14 and -- to whether or not they were disappointed or
15 not, I know that they -- that was what they said
16 in that interview.

17 BY MR. HAWAL:

Response	Percentage
Yes, it's important to take action to reduce greenhouse gas emissions	100%
No, it's not important to take action to reduce greenhouse gas emissions	95%
Yes, it's important to take action to reduce greenhouse gas emissions	85%
No, it's not important to take action to reduce greenhouse gas emissions	100%
Yes, it's important to take action to reduce greenhouse gas emissions	98%
No, it's not important to take action to reduce greenhouse gas emissions	75%
Yes, it's important to take action to reduce greenhouse gas emissions	70%
No, it's not important to take action to reduce greenhouse gas emissions	100%

- [illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 Q Other distributors were also fined by
12 the DEA for failure to conform to the Controlled
13 Substances Act and -- and regulations. True?
14 Besides McKesson.

15 A There were other distributors that were
16 fined by the DEA, yes.

17 Q And do you know what led to other
18 distributors' fines?

19 A Define --

20 MR. STANNER: Objection to the form.

21 MR. SATIN: Objection --

22 THE WITNESS: Define --

23 MR. SATIN: Sorry. Objection to the
24 extent you're asking -- or your answer would

1 reveal information about your work at the DEA.

2 THE WITNESS: From any -- the public
3 information that I've read, it was related to a
4 failure to report a suspicious order. That's the
5 only reason a civil fine can be levied on a
6 registrant.

7 BY MR. HAWAL:

8 Q How many suspicious orders did McKesson
9 fail to report from 2008 through 2013?

10 MR. STANNER: Objection to the form,
11 speculation.

12 THE WITNESS: I -- I have no idea. I
13 don't know.

14 BY MR. HAWAL:

15 Q You don't know if it was ten or 10,000?

16 MR. STANNER: Same objection.

17 THE WITNESS: I don't know.

18 BY MR. HAWAL:

Government	Percentage
Current government	85%
Previous government	15%

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17 Q Sir, do you know how many suspicious
18 orders were not blocked but were shipped?

19 MR. STANNER: Objection to the form.

20 BY MR. HAWAL:

21 Q By McKesson?

22 A During what time frame?

23 Q From 2008 to 2013.

24 MR. STANNER: Same objection.

1 THE WITNESS: It was prior to my
2 employment. I -- I don't know.

3 BY MR. HAWAL:

4 Q So you don't -- so you don't have an
5 answer to that question either, right?

6 A I do not.

7 Q Well, would you be concerned about a
8 suspicious order being shipped and not blocked,
9 and no due diligence being done to determine
10 whether or not that suspicious order should be
11 shipped?

12 MR. STANNER: Objection to the form.

13 THE WITNESS: Not necessarily.

14 BY MR. HAWAL:

15 Q Okay. Did you have a different
16 viewpoint when you were with the DEA?

17 MR. STANNER: Objection --

18 MR. SATIN: Objection.

19 MR. STANNER: -- to the form.

20 MR. SATIN: Same instruction. Don't
21 answer that.

22 THE WITNESS: I don't know that I can
23 answer at this time.

24 BY MR. HAWAL:

Row	Bar Length (approx. %)
1	85
2	100
3	88
4	92
5	88
6	85
7	100
8	95
9	92
10	40
11	25
12	88
13	92
14	65
15	50
16	50
17	25
18	50
19	90
20	92
21	92
22	95
23	100
24	30
25	90

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

8 (Plaintiffs' Exhibit No. 12 was
9 marked for identification.)

10 BY MR. HAWAL:

11 Q I'm going to hand you what has been
12 marked as Plaintiffs' Exhibit 12, which is a
13 series of e-mails, and the page that I'm going to
14 refer you to is MCKMDL00543972, which is an e-mail
15 exchange between Sharon Mackarness and Gary
16 Hilliard in 2006.

17 MR. STANNER: I'm sorry, I -- the Bates
18 number that we have here starts at --

19 MR. HAWAL: Yeah, it's the second --
20 it's the backside of that.

21 MR. STANNER: Right. I have 543916. I
22 believe you said 543972.

23 MR. HAWAL: Well, I have one that's
24 Bates-stamped 972, and I have the same document

[illegible]

23 BY MR. HAWAL:

24 Q And how do you know that?

[illegible]

[illegible]

- [illegible]

- [illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 MR. HAWAL: Let's take -- let's take a
11 lunch break.

12 THE VIDEOGRAPHER: The time is 1:14 p.m.
13 We're going off the record.

14 MR. STANNER: Can we stay on the record
15 and put two quick things on the record?

16 MR. SATIN: Very quickly. When at times
17 I've said, "Same objection," as I think everyone
18 here knows, I'm not referring to the same
19 objection that another lawyer in this room makes,
20 but the same objection I previously made as it
21 relates to Touhy.

22 MR. STANNER: I --

23 MR. HAWAL: Understood.

24 MR. STANNER: I'd just like to put on

[illegible]

[illegible]

23 Q And the crisis in West Virginia is where
24 McKesson for years had shipped opioid pills in

1 enormous quantities to small towns with
2 populations --

3 MR. LIVINGSTON: I'm sorry. We can
4 barely hear you on the phone.

5 (A discussion was held off the record.)

6 THE VIDEOGRAPHER: The time is 2:08 p.m.
7 We're going off the record.

8 (Pause.)

9 THE VIDEOGRAPHER: The time is 2:10
10 p.m., and we're back on the record.

11 BY MR. HAWAL:

12 Q Mr. Boggs, are you aware from the time
13 that you've been at McKesson that over the years
14 McKesson had shipped opioid pills to communities
15 that had small populations of hundreds or a few
16 thousand with enormous quantities of opioids that
17 were disproportionate to the populations of the
18 pharmacies servicing the community?

19 MR. STANNER: Object to the form of the
20 question.

21 THE WITNESS: I am.

22 BY MR. HAWAL:

■ ■ [REDACTED]
■ [REDACTED]

A horizontal bar chart consisting of 20 rows. Each row begins with a small, dark gray square icon. To the right of each icon is a horizontal gray bar. The bars vary in their starting and ending horizontal positions relative to the chart's boundaries. Some bars start at the left edge, while others are indented. The lengths of the bars also vary, with some extending nearly to the right edge and others being much shorter.

21 BY MR. HAWAL:

22 Q You're aware that the Attorney General
23 of West Virginia has filed a lawsuit against
24 McKesson and others related to the opioid epidemic

1 in that state?

2 MR. STANNER: Object to the form of the
3 question.

4 THE WITNESS: I am.

5 BY MR. HAWAL:

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ ■ [REDACTED]

10 Q By this time in September 1st of 2015,
11 the opioid epidemic had been well established not
12 only in West Virginia but across the country.
13 True?

14 MR. STANNER: Object to the form.

15 THE WITNESS: It had.

16 BY MR. HAWAL:

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED] ■

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ ■ [REDACTED]

■ ■ [REDACTED]

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[illegible]

A horizontal bar chart titled "Percentage of respondents who believe the U.S. should take action to address climate change". The chart displays data for 12 age groups, with the youngest group (18-29) at the top and the oldest group (70+) at the bottom. The bars are color-coded by gender: blue for men and orange for women. The x-axis represents the percentage of respondents, ranging from 0% to 100%. The y-axis lists the age groups. The data shows that a majority of respondents in all age groups believe the U.S. should take action to address climate change, with the highest percentages generally found in the youngest age groups.

Age Group	Men (%)	Women (%)
18-29	95	95
30-39	90	90
40-49	85	85
50-59	80	80
60-69	75	75
70+	70	70
18-29	95	95
30-39	90	90
40-49	85	85
50-59	80	80
60-69	75	75
70+	70	70
18-29	95	95
30-39	90	90
40-49	85	85
50-59	80	80
60-69	75	75
70+	70	70

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1	45
2	95
3	25
4	90
5	85
6	50
7	50
8	45
9	25
10	100
11	85
12	98
13	95
14	20
15	50
16	50
17	45
18	25
19	85
20	40

21 (Plaintiffs' Exhibit No. 15 was
22 marked for identification.)

23 BY MR. HAWAL:

24 Q Was that Exhibit 14?

[REDACTED]

[REDACTED]

[REDACTED]

4 BY MR. HAWAL:

5 Q Do you know who Jenny Melton is?

6 A I've been on some conference calls
7 throughout my tenure at McKesson that she was on.

8 Q Is she with Regulatory Affairs, do you
9 know?

10 A I know she's not.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21 Don Walker was in Regulatory Affairs,
22 correct?

23 MR. STANNER: Object to the form.

24 THE WITNESS: He was the senior vice

1 president over the distribution operations, and as
2 part of his duties and responsibilities, the
3 Regulatory Affairs folks reported up to him.

4 BY MR. HAWAL:

■ ■ ██
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13 BY MR. HAWAL:

14 Q When you were with the DEA, did you
15 expect suspicious order reports to be sent to DEA
16 by a company like McKesson?

17 MR. SATIN: Objection. Pursuant to
18 Touhy, do not answer that, to the extent that
19 doing so would reveal information you obtained
20 while at DEA.

21 BY MR. HAWAL:

22 Q Are you willing to answer that, sir?

23 A I'm not able to answer that at this
24 time.

1 Q Are you -- you mentioned -- you
2 referenced Mr. Hammergren's testimony before
3 Congress previously.

4 Mr. Hammergren, you're aware, testified
5 before Congress in his capacity as president of
6 McKesson dealing with the opioid crisis.

7 A It was my understanding he testified as
8 the CEO of the company.

9 Q Okay.

10 A But -- I'm aware of that.

11 Q Did you -- were you present for that
12 hearing or did you listen to it?

13 A I was not present, but, yes, I did
14 listen to it.

15 Q Do you remember that Mr. Hammergren
16 testified before Congress that if McKesson had its
17 current algorithm in place in 2007, that orders
18 which exceeded thresholds would not have been
19 shipped? Do you recall that?

20 MR. STANNER: Object to the form.

21 THE WITNESS: I don't recall
22 specifically that, but I'll take your word for it.

23 BY MR. HAWAL:

24 Q Well, does that -- does that sound

1 correct that --

2 A I don't have any reason to doubt it.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

1 marked for identification.)

2 BY MR. HAWAL:

3 Q Sir, I'm handing you what we've marked
4 as Exhibit 16.

5 It's a number of statements that I'm
6 going to ask you whether you agree with that apply
7 to establishing opioid thresholds at McKesson.

8 Do you agree that thresholds are a
9 critical part of CSMP at McKesson?

10 MR. STANNER: Objection. Form and
11 foundation.

12 THE WITNESS: I think they're an
13 important part of our program, yes.

14 BY MR. HAWAL:

15 Q And they were an important part of
16 McKesson's program certainly going back to the
17 creation of the CSMP in 2008 with its settlement
18 agreement, right?

19 MR. STANNER: Same -- same objection.

20 MR. SATIN: Objection with respect to
21 Touhy. Don't answer if it would -- if your answer
22 would reveal information about your time at the
23 DEA.

24 THE WITNESS: It is my understanding

1 they were -- started back around 2007 under the
2 Lifestyle Drug Monitoring Program.

3 BY MR. HAWAL:

4 Q And do you agree that McKesson takes
5 great care in setting thresholds, or should?

6 A I -- McKesson does take great care in
7 setting thresholds.

8 Q And they should have taken great care in
9 doing so back to 2007, correct?

10 MR. STANNER: Object to the form.

11 THE WITNESS: I don't know that they
12 didn't.

13 BY MR. HAWAL:

14 Q I didn't ask you that. I'm asking you
15 whether they should have.

16 A I think it would have been an important
17 thing, yes.

18 Q And would you agree that each customer
19 is unique so that the threshold is specific to
20 each customer's business needs? Is that a true
21 statement?

22 A I would agree with it, yes.

23 Q And McKesson should make informed
24 decisions based on established threshold

1 information. Is that a fair statement?

2 MR. STANNER: Object to the form.

3 THE WITNESS: I agree with the
4 statement, yes.

5 MR. HAWAL: I didn't mean to throw it.

6 MR. STANNER: I was going to say, I'm
7 going to give you the benefit of the doubt that
8 but you didn't mean to throw it.

9 (Plaintiffs' Exhibit No. 17 was
10 marked for identification.)

11 BY MR. HAWAL:

12 Q Have you seen this e-mail before, dated
13 December 27th, 2010?

14 A I don't believe I've ever seen this
15 document.

16 Q This is a document from Jay Kramer -- or
17 to Jay Kramer from SharePoint?

18 MR. STANNER: Object to the form.

19 BY MR. HAWAL:

20 Q It's MCK_00168027.

21 MR. STANNER: So just for the record, it
22 doesn't have the MDL Bates on it, so maybe it's
23 cut off due to some sizing or imaging. The -- I
24 think it's 165027. Bill, I --

1 MR. HAWAL: Yeah, the copying -- it's
2 been copied so many times, it -- it's hard to make
3 out, but we've used it before.

4 MR. STANNER: Sure. It's a SharePoint
5 e-mail dated Monday, December 27, 2010, at
6 6:12 p.m.

7 BY MR. HAWAL:

8 Q Have you seen this before?

9 A I've never seen this before.

10 Q Are you familiar with SharePoint?

11 A I -- yes.

12 Q What -- what is SharePoint?

13 A SharePoint's kind of a software system
14 that McKesson and other companies use as a way to
15 manage certain functions.

16 Q And is Dale's Pharmacy familiar to you?

17 A It is not.

18 Q No? I want you to assume that Dale's
19 Pharmacy was indicted for distributing, selling
20 opioids to illicit customers in the state of
21 Colorado.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19 Q Which is pure speculation on your part,
20 correct?

21 MR. STANNER: Objection. You've asked
22 him to speculate.

23 THE WITNESS: Yeah, that was my
24 understanding. You asked for my opinion on it.

1 BY MR. HAWAL:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

1 marked for identification.)

2 BY MR. HAWAL:

3 Q I'm handing you what we marked as
4 Exhibit 18, is MCKMDL00596566, which is a
5 Controlled Substance Monitoring Program document.

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

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Row	Bar Start (approx. %)	Bar End (approx. %)
1	0	100
2	0	65
3	0	95
4	0	85
5	25	90
6	0	60
7	30	75
8	0	45
9	15	95
10	0	100
11	0	35
12	0	98
13	0	40
14	30	90
15	0	98

15 (Plaintiffs' Exhibit No. 19 was
16 marked for identification.)

17 BY MR. HAWAL:

18 Q I'm handing you what we marked as
19 Exhibit 19. It's another Controlled Substance
20 Monitoring Program document relating to
21 thresholds. Correct?

22 A That's correct.

- [illegible]

[illegible]

23 (Plaintiffs' Exhibit No. 20 was
24 marked for identification.)

1 BY MR. HAWAL:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19 MR. STANNER: Objection to the form.

20 MR. SATIN: Objection. The insinuation
21 of some of your questions, when you use the word
22 "you," if you could be clear as to whom you are
23 referring to.

24 MR. HAWAL: I'm referring to you as

1 McKesson.

2 MR. STANNER: Well, I think that's the
3 issue. To the extent he being -- he's being asked
4 to speak for McKesson, I would have a standing
5 objection to some of the earlier questions. I
6 think he is here in his personal capacity. He can
7 speak to what he personally knows.

8 BY MR. HAWAL:

9 Q Well, sir, you were -- you were retained
10 by McKesson to make changes because of problems
11 McKesson had been having with its Controlled
12 Substance Monitoring Program and its
13 anti-diversion procedures prior to your arrival,
14 right?

15 MR. STANNER: Objection. Calls for
16 speculation. Object to the form.

17 THE WITNESS: I was hired to work and
18 oversee the regulatory program and improve it
19 wherever we could --

20 BY MR. HAWAL:

21 Q Well --

22 A -- improve it and evolve it.

23 Q -- you knew that McKesson had had a
24 problem that resulted in a settlement agreement

1 and fine in 2008 where they promised to make
2 changes, and you know that changes -- well, you
3 know that -- that problems continued that resulted
4 in a \$150 -- a \$150 million settlement in 2000 and
5 -- what was it, '18 or '17?

6 A '17.

7 Q '17. And those problems were occurring
8 from 2008 through 2013, right?

9 MR. STANNER: Same objections, compound.

10 MR. SATIN: And objection pursuant to
11 Touhy. Do not answer if it would reveal
12 information you learned while at DEA.

13 THE WITNESS: I was not aware of the
14 second matter until after I was retained by
15 McKesson.

16 BY MR. HAWAL:

17 Q Right. But you -- do you understand
18 that the reason they hired you as a former DEA
19 agent was to come aboard and clean up what had
20 been happening with regard to their anti-diversion
21 programs?

22 MR. STANNER: Same objection, calls for
23 speculation.

24 THE WITNESS: I don't know if I agree

1 with the characterization. I believe that I have
2 skill sets that can help improve and expand a
3 program and to continue to evolve that program.

4 BY MR. HAWAL:

5 Q I want you to assume that Marc's is a
6 chain pharmacy that exists in Cuyahoga and Summit
7 counties in Ohio, and this is -- well, I
8 apologize. I haven't marked it or identified it.
9 I'll do that.

10 (Plaintiffs' Exhibit No. 21 was
11 marked for identification.)

12 BY MR. HAWAL:

A horizontal bar chart with 14 rows. Each row consists of a small gray square, a gap, another small gray square, and a long gray bar. The bars are of varying lengths and are staggered horizontally across the rows.

- A horizontal bar chart titled "Percentage of respondents who believe the U.S. should take action to address climate change." The chart displays data for two main categories: "All respondents" and "U.S. adults", each further broken down by "Age group" and "Gender". The x-axis represents the percentage, ranging from 0% to 100% in 10% increments. The y-axis lists the categories. The bars are color-coded: blue for "All respondents", orange for "U.S. adults", and light blue for "All respondents" (repeated for gender breakdown). The data shows that a majority of respondents across all groups believe the U.S. should take action to address climate change, with the highest percentages in the "U.S. adults" category.

Category	Age group	Gender	Percentage
All respondents	18-29	Male	75%
		Female	78%
	30-49	Male	72%
		Female	75%
50-64	Male	68%	
	Female	70%	
65+	Male	65%	
	Female	68%	
U.S. adults	18-29	Male	78%
		Female	80%
	30-49	Male	75%
		Female	78%
50-64	Male	72%	
	Female	75%	
65+	Male	68%	
	Female	70%	

- [illegible]

[illegible]

[illegible]

- [illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7 Q He's not. Was he?

8 A He may have before I came on. I
9 don't -- I don't know that.

10 MR. STANNER: Yes, let me just note
11 quickly for the record here, there's a previous

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

16 (Plaintiffs' Exhibit No. 22 was
17 marked for identification.)

18 BY MR. HAWAL:

19 Q Mr. Boggs, was what your lawyer just
20 said accurate?

21 A It is.

22 Q I'm handing you what we've marked as
23 Exhibit 22, which is a series of e-mails between
24 someone at McKesson and someone at CVS.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

6 MR. STANNER: Object to the form.

7 And if you need time to read the
8 document, it's fairly lengthy.

9 Counsel, if there a specific point --
10 part you want to point us to, let -- also I don't
11 believe that --

12 MR. HAWAL: I'm sorry.

13 MR. STANNER: I don't believe this -- I
14 don't believe the document that's up there is this
15 document, unless I'm missing something. I have
16 MCKMDL00627048.

17 MR. HAWAL: That's what I'm referring
18 to, but -- let me put it on the ELMO.

19 Can you zoom in on it, Evan? Okay.
20 Thank you.

21 BY MR. HAWAL:

22 Q The e-mail -- this is MCKMDL00627048.
23 The e-mail is from Ned McKenna to Brian Whalen,
24 with copies to Tom McDonald and others, and

1 including Donald Walker.

Row	Bar Length (approx. %)
1	85
2	100
3	95
4	88
5	100
6	92
7	90
8	65
9	25
10	100
11	100
12	90
13	98
14	100
15	82
16	100
17	88
18	95
19	92
20	100

21 MR. STANNER: Object to the form,
22 speculation. Vague, "you."

23 MR. SATIN: Again, also you used the
24 word -- this is a 2010 document, and he wasn't at

1 Q It would not have its own, is that what
2 you're saying?

3 A They don't -- they fill prescriptions to
4 patients. They don't --

5 Q I'm talking about its corporate -- you
6 said you deal with the chains' corporate
7 representatives.

8 A Right.

9 Q Does the corporate headquarters have
10 some type of Regulatory Affairs department or
11 suspicious monitoring program?

12 MR. STANNER: Objection to the form. He
13 did not said that he did it personally.

14 THE WITNESS: They would have a
15 suspicious order -- or, I'm sorry, they would have
16 a Controlled Substance Monitoring Program, but
17 they would not have a suspicious order program.

18 BY MR. HAWAL:

19 Q What does their controlled substance
20 monitoring program consist of, if you know?

21 A I -- I don't know.

22 MR. STANNER: Object to the form.

23 BY MR. HAWAL:

24 Q Who at the company should know that?

1 MR. STANNER: Object to the form.

2 THE WITNESS: I would say that Nate
3 Hartle would be -- be knowledgeable about that.

4 BY MR. HAWAL:

5 Q Are you aware that CVS had multiple
6 instances where they were fined by the Department
7 of Justice as a result of their failure to
8 appropriately implement a suspicious monitoring
9 program and its failure to adhere to the
10 obligations under the Controlled Substances Act
11 and -- and regulations?

12 MR. STANNER: Object to the form.

13 THE WITNESS: I'm only aware of -- of
14 one for that. I'm not aware of multiple ones.

15 (Plaintiffs' Exhibit No. 23 was
16 marked for identification.)

17 BY MR. HAWAL:

18 Q Sir --

19 MR. HAWAL: Evan, I'm going to use the
20 ELMO because you have the wrong one.

21 BY MR. HAWAL:

22 Q I'm handing you what we marked as
23 Exhibit 23. It's a document from the United
24 States Attorney's Office for the Eastern District

1 of California, referencing the fact that CVS had
2 paid a \$5 million penalty to resolve allegations
3 that it had violated the Controlled Substances
4 Act.

5 Do you see that?

6 MR. STANNER: Object to the form.

7 THE WITNESS: From my reading of this,
8 it -- it was a fine -- fine for recordkeeping
9 violations.

10 BY MR. HAWAL:

11 Q Mm-hmm. In violation of the Controlled
12 Substances Act?

13 A Or the implementing regulations, yes.

14 (Plaintiffs' Exhibit No. 24 was
15 marked for identification.)

16 BY MR. HAWAL:

17 Q I'm handing you what we marked as
18 Exhibit 24. It is another release from the U.S.
19 Attorney's office for the District of
20 Massachusetts where CVS paid \$3.5 million because
21 its pharmacists were filling fake prescriptions.

22 MR. STANNER: Object to the form of the
23 question.

24 THE WITNESS: I see that.

1 BY MR. HAWAL:

2 Q Were you aware of that?

3 A No, I was not.

4 (Plaintiffs' Exhibit No. 25 was
5 marked for identification.)

6 BY MR. HAWAL:

7 Q I'm handing you what has been marked as
8 Exhibit 25. It is another release from the U.S.
9 Department -- or from, yeah, the U.S. Attorney's
10 Office for the District of Rhode Island where CVS
11 paid another civil penalty of \$450,000 for
12 violations of the Controlled Substances Act by
13 filling invalid prescriptions and maintaining
14 deficient records.

15 MR. STANNER: Objection to the form.

16 THE WITNESS: I see it.

17 BY MR. HAWAL:

18 Q Aware of that -- were you aware of that?

19 A I was not aware of that, no.

20 (Plaintiffs' Exhibit No. 26 was
21 marked for identification.)

22 BY MR. HAWAL:

23 Q Sir, I'm handing you what I've marked as
24 Exhibit 26. Is that correct, is it 26 or 27?

1 A 26.

2 Q Is -- this one is from the Western
3 District of Oklahoma whereby CVS agreed to pay
4 \$11 million to settle -- settle claims that it
5 violated the Controlled Substances Act.

6 MR. STANNER: Objection to the form of
7 the question.

8 BY MR. HAWAL:

9 Q Do you see that?

10 A I do see that.

11 Q And at the bottom, in identifying the
12 reasons, it said it created and entered and
13 maintained invalid dummy DEA registration numbers
14 other than the valid DEA registration numbers of
15 the prescribing practitioners on dispensing
16 records, and in filling prescriptions for certain
17 prescribers whose DEA registration numbers were
18 not current or valid.

19 Were you aware of this civil penalty?

20 MR. STANNER: Objection to the form,
21 assumes facts. Calls for speculation.

22 BY MR. HAWAL:

23 Q Which ones -- which CVS infractions were
24 you aware of that resulted in some type of -- of

1 penalty or action by the Department of Justice?

2 A I'm aware of two CVS, Sanford, Florida,
3 pharmacies that were -- there was some issues
4 related to them. I don't know whether or not
5 there was actually a fine or what the final
6 outcome of that was, but I -- I'm aware of that
7 one.

8 Q Do you believe that these types of
9 reports would be monitored by someone at McKesson
10 who is responsible for the CVS account?

11 MR. STANNER: Objection to the form.

12 THE WITNESS: I would expect that to
13 some extent. I mean every -- every one of these
14 appear to be a large -- there was a large focus
15 related to the civil fine on recordkeeping
16 violations.

17 BY MR. HAWAL:

18 Q Well, are recordkeeping violations
19 important to you?

20 MR. STANNER: Objection to the form.
21 Vague.

22 THE WITNESS: They're important, yes.

23 BY MR. HAWAL:

24 Q And do you believe that this type of

1 marked for identification.)

2 BY MR. HAWAL:

3 Q I'm handing you what has been marked as
4 Exhibit 27. It is several e-mails,
5 MCKMDL00544143, between Bruce Skidgel and Donald
6 Walker.

■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

14 MR. STANNER: Objection to the form.
15 Foundation, speculation.

16 THE WITNESS: If I could just take a
17 minute to read it.

18 BY MR. HAWAL:

19 Q Mm-hmm.

20 A (Peruses document.) Could you repeat
21 your question?

■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

6 BY MR. HAWAL:

7 Q Mr. Boggs, I'm going to hand you what we
8 previously marked at your earlier deposition as
9 Exhibit 6, MCKMDL00407451.

10 MR. STANNER: Is this 28?

11 MR. HAWAL: Yeah.

12 BY MR. HAWAL:

13 Q And we're going to mark it as Exhibit 28
14 for your deposition today.

15 (Plaintiffs' Exhibit No. 28 was
16 marked for identification.)

17 BY MR. HAWAL:

18 Q You're familiar with the term
19 "diversion," "drug diversion"?

20 A I am.

21 Q And what is your understanding -- well,
22 strike that.

23 Are you familiar with the term "drug
24 migration" as it relates to diversion?

1 A I am.

2 Q In other words, drugs that find their
3 way into the illegal distribution system in a
4 given community will not remain in that community;
5 they will -- some of those drugs will migrate to
6 adjacent communities and even different states.
7 Is that a fair statement as to what drug migration
8 refers to?

9 MR. STANNER: Objection to form.

10 THE WITNESS: I agree with that.

11 BY MR. HAWAL:

12 Q That is something that has been well
13 recognized for quite a few years now?

14 MR. STANNER: Objection to form.

15 THE WITNESS: I -- I agree with the --
16 the definition of it. As long as it's been
17 recognized, I don't know.

18 BY MR. HAWAL:

19 Q In fact, I've heard the term referred to
20 as the "Blue Highway." Have you heard that
21 phrase?

22 A I've not heard that one, no.

23 Q In any event, on page 465 of the -- this
24 is a PowerPoint that you created; is that correct?

1 A I believe so, yes.

2 Q And on page 465 of this PowerPoint,
3 there is a map of the United States, and the title
4 is "Drug Diversion Migration Out of Florida," and
5 it has a series of arrows.

6 Is that intended to show where drugs
7 that were being diverted in Florida were finding
8 their way to different parts of the country?

9 MR. STANNER: Objection to the form.

10 THE WITNESS: What this is depicting is
11 the criminal schemes of pill mills in Florida, and
12 where those that were complicit in that criminal
13 scheme would -- would take those, you know, out of
14 Florida and into other locations throughout the
15 United States.

16 BY MR. HAWAL:

17 Q And sell them in communities in Georgia,
18 Tennessee, Kentucky, Ohio, and Missouri?

19 A That could be.

20 Q And I take it this was based upon
21 information that you either researched or had
22 knowledge about?

23 MR. STANNER: Objection to form.
24 Foundation.

1 MR. STANNER: Object to the form.

2 BY MR. HAWAL:

3 Q Marino. Tom Marino.

4 MR. STANNER: Same objection.

5 THE WITNESS: I'm aware --

6 MR. SATIN: Same objection with respect
7 to Touhy.

8 THE WITNESS: I'm aware of that
9 legislation. I'm not agree -- I'm not sure I
10 would agree with the characterization that you
11 framed it out.

12 BY MR. HAWAL:

13 Q Well, it's legislation that was passed
14 in 2016, correct?

15 A That's correct.

16 Q Do you know how much money McKesson has
17 contributed to lobbying efforts with Congressman
18 Marino and other congressmen to facilitate the
19 passage of that legislation?

20 MR. STANNER: Object to the form.

21 THE WITNESS: I do not.

22 MR. HAWAL: Okay. That's all the
23 questions I have.

24 MR. RAFFERTY: Not for the plaintiffs,

1 though.

2 MR. STANNER: Understood.

3 MR. RAFFERTY: Let's take a ten-minute
4 break and will swap out some stuff.

5 MR. STANNER: That will be fine.

6 THE VIDEOGRAPHER: The time is 3:31 p.m.
7 We're going off the record.

8 (Recess.)

9 THE VIDEOGRAPHER: The time is 3:49 p.m.
10 We're back on the record.

11 DIRECT EXAMINATION

12 BY MR. RAFFERTY:

13 Q Mr. Boggs, good afternoon. My name is
14 Troy Rafferty. I'm representing the plaintiffs in
15 this case along with Mr. Hawal. I'm going to ask
16 you some additional questions here for a bit,
17 okay?

18 A Sure.

19 Q Okay. And if I talk over you, I
20 certainly don't mean to. I know we're under time
21 crunches, and I'm going to do my best not to do
22 that, but if I do, I apologize, and I don't mean
23 to, and just point it out to me, or your counsel
24 will point it out to me. Okay?

1 A Sure.

2 Q You were just being asked some questions
3 about a bill that was passed in 2016 by Mr. Hawal.
4 Are you familiar with that?

5 A I am.

6 Q In fact, you have been of the opinion
7 for several years, dating back even to your time
8 at the DEA, that the distributors of opioids and
9 narcotics had basically blown off the DEA.
10 Correct?

11 MR. STANNER: Objection to form.

12 THE WITNESS: I don't know if I would
13 necessarily characterize it that in its entirety.
14 BY MR. RAFFERTY:

15 Q Well, how would you -- do you believe as
16 we sit here today that leading up to your
17 employment at McKesson that the distributors had
18 blown off the DEA?

19 MR. SATIN: Objection pursuant to Touhy.
20 Don't ask that -- don't answer that if it's going
21 to reveal information you learned while at the
22 DEA.

23 THE WITNESS: I don't believe I can
24 answer the question at this time.

1 BY MR. RAFFERTY:

2 Q All right. Well, let me -- let me show
3 you what we're marking as Exhibit 30.

4 (Plaintiffs' Exhibit No. 30 was
5 marked for identification.)

6 MR. STANNER: Thank you.

7 BY MR. RAFFERTY:

8 Q Two -- 1.2033. And this is
9 Bates-numbered MCKMDL00661483.

10 I'm going to direct your attention to
11 the middle e-mail. That's the one I'm going to
12 ask you about, Mr. Boggs.

13 Do you know who Ann Berkey is?

14 A She used to be employed by McKesson. I
15 don't believe she's any longer employed by
16 McKesson.

17 Q You had conversations with her in the
18 past about your time at the DEA and your
19 impressions of the -- of the interaction between
20 the distributors and DEA, correct?

21 A I don't know that I had multiple
22 conversations with her. I -- I recall a
23 conversation.

24 Q Okay. Well, let's take a look at what

1 Ms. Berkey says here in this e-mail dated April 8,
2 2014. You were at -- at McKesson at that time,
3 correct?

4 A I was.

Row	Category	Value (approx. %)
1	Category 1	100
2	Category 2	60
3	Category 3	85
4	Category 4	95
5	Category 5	90
6	Category 6	95
7	Category 7	20
8	Category 8	90
9	Category 9	95
10	Category 10	15
11	Category 11	95
12	Category 12	80
13	Category 13	95
14	Category 14	90
15	Category 15	10
16	Category 16	50
17	Category 17	10
18	Category 18	95
19	Category 19	20
20	Category 20	50

A collection of 20 horizontal bars of varying lengths and positions, representing a data series. The bars are arranged in a vertical stack, with each bar starting at a different horizontal offset and extending to a different length. The bars are colored in a light gray color.

22 Q Okay. And a distributor of narcotics

23 just like McKesson, right?

24 A That's correct.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19 BY MR. RAFFERTY:

20 Q So you were -- at least in 2014, you
21 were sharing information from your time at DEA
22 with employees of McKesson. True?

23 A In -- in generalities, yes.

24 Q Okay. Including how -- how the DEA had

1 processes in place to collaborate with the
2 wholesalers, correct?

3 A That's correct.

4 Q Okay. And while you were at the DEA,
5 what processes were in place for you to
6 collaborate with wholesalers?

7 MR. SATIN: Objection. Pursuant to
8 Touhy, don't answer that question.

9 BY MR. RAFFERTY:

1 as Exhibit 31. It's going to be a lot later --
2 lot lighter trip home for me.

3 (Plaintiffs' Exhibit No. 31 was
4 marked for identification.)

5 BY MR. RAFFERTY:

6 Q So it is 1.1555.

7 MR. STANNER: This is Boggs 31?

8 MR. RAFFERTY: Boggs 31, yes, sir.

9 BY MR. RAFFERTY:

10 Q Do you recognize this as Section 55,
11 Mr. Boggs? Do you see at the top it says "55 -
12 Controlled Substances"?

13 A Yes. I do.

14 Q And it's dated July 2000. Do you see
15 that?

16 A I do.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 BY MR. RAFFERTY:

10 Q Well, but you reviewed it, you said,
11 right?

12 A Only cursory. I haven't -- this is --
13 this is not in place since I came to McKesson.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21 BY MR. RAFFERTY:

22 Q Okay. Are you -- okay.

23 Let's go ahead and just turn the page.

24 It should be at .29. Down at the bottom, it

- [illegible]

- [illegible]

- [illegible]

- [illegible]

[illegible]

15 Q Okay. I'm going to hand you what we're
16 marking as exhibit -- I think we're at 33, right?
17 I hope so because that's the next one I got.

18 MR. STANNER: I had this as 31.

19 MS. MONAGHAN: Yeah, we're on 32.

20 MR. RAFFERTY: We're on 32?

21 (A discussion was held off the record.)

22 MR. RAFFERTY: Go off the record for
23 just one second.

24 THE VIDEOGRAPHER: The time is 4:02 p.m.

1 We're going off the record.

2 (A discussion was held off the record.)

3 THE VIDEOGRAPHER: The time is 4:02 p.m.

4 We're back on the record.

5 (Plaintiffs' Exhibit No. 32 was
6 marked for identification.)

7 BY MR. RAFFERTY:

8 Q All right. I've just handed your
9 counsel what we've marked as Exhibit 32,
10 Mr. Boggs. And it is 1.2100.

11 So have you ever seen -- this, I'm going
12 to represent to you, was produced to us as an
13 example of a DU45 report that was submitted by
14 McKesson to the DEA.

15 Are you familiar -- have you seen any
16 type of document like that?

17 A I have not seen it, no.

18 Q Could you hold it up for the camera just
19 so -- because I'm going to represent to you that
20 that is two-sided, it's printed on both sides, and
21 it's approximately 600 pages long.

■

■

■

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

18 Q In fact, you're aware that the DEA made
19 clear to all of the distributors that simply
20 submitting these excess purchase orders reports
21 did not satisfy the distributors' duties and
22 obligations under the Controlled Substances Act,
23 correct?

24 MR. SATIN: Objection pursuant to Touhy.

1 Don't answer if it's going to reveal any
2 information from your time at DEA.

3 THE WITNESS: I don't believe I can
4 answer that question right at this time.

5 BY MR. RAFFERTY:

6 Q Okay. In fact, if we look at what I'm
7 going to mark as exhibit -- I just found 32.
8 Okay.

9 MR. RAFFERTY: Well, too late now.

10 BY MR. RAFFERTY:

11 Q So Exhibit 33 -- all right. So I'm
12 marking as Exhibit 33 -- that's why I don't
13 pre-mark exhibits.

14 (Plaintiffs' Exhibit No. 33 was
15 marked for identification.)

16 BY MR. RAFFERTY:

17 Q What years were you work -- working at
18 the -- in the diversion -- or at the DEA in
19 regards to diversion?

20 MR. STANNER: Objection. Form.

21 THE WITNESS: I started in January of
22 2006, and I retired from that position and the
23 Agency at the end of June of 2012.

24 BY MR. RAFFERTY:

[illegible]

23 BY MR. RAFFERTY:

24 Q Okay. What about when you were at the

[illegible]

- [illegible]

[illegible]

■ [REDACTED]

■ [REDACTED]

3 Q Now, you -- you agree with me that not
4 only must -- speaking of today, while you're here
5 at -- since you've been at McKesson, you would
6 agree that you have an obligation not to just
7 report but also to block suspicious orders --

8 MR. STANNER: Object --

9 BY MR. RAFFERTY:

10 Q -- and then perform due diligence on
11 those to determine whether or not they're likely
12 to be diverted to illegal uses, correct?

13 MR. STANNER: Objection to the form on
14 several bases. I'll save you the time unless you
15 want them.

16 MR. RAFFERTY: That's okay.

17 THE WITNESS: A regulatory obligation?

18 BY MR. RAFFERTY:

19 Q Yes.

20 A No, I don't agree with that at all.

21 Q You don't agree with that.

22 A I don't know anywhere in the regulation
23 that that's a requirement.

24 Q Did you believe that when you were at

1 the DEA?

2 MR. SATIN: Objection pursuant to Touhy.

3 THE WITNESS: I don't believe I can
4 answer that question at this time.

5 BY MR. RAFFERTY:

6 Q In fact, let's go ahead and mark this as
7 Exhibit 34, 1946.

8 (Plaintiffs' Exhibit No. 34 was
9 marked for identification.)

10 BY MR. RAFFERTY:

11 Q This is a -- this is a document,
12 Mr. Boggs, dated September 1 -- well, it's
13 actually dated October 20, 2005 up in the top
14 right corner, but it's referencing a presentation
15 on September 1st, 2005.

16 Do you see that?

17 A I do.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8 Q Did you become aware while you were at
9 the DEA that these meetings were taking place?

10 MR. SATIN: Objection pursuant to Touhy.

11 THE WITNESS: During the time frame of
12 this -- this memorandum, I was not in -- in the
13 diversion program, so I didn't -- I wasn't aware
14 of this.

15 BY MR. RAFFERTY:

16 Q It says here that the -- it looks at --
17 it's to Joseph Rannazzisi from Michael Mapes.

18 I believe you said you knew Michael
19 Mapes?

20 A I do.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Age Group	A (%)	B (%)	C (%)	D (%)
18-24	10	10	10	70
25-34	10	10	10	70
35-44	10	10	10	70
45-54	10	10	10	70
55-64	10	10	10	70
65+	10	10	10	70

Category	Percentage
Current government	80%
Previous governments	20%

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

16 Q And you know today in your work with

17 McKesson that that's a requirement and has been a

18 requirement of the Controlled Substances Act since

19 its passage, correct?

20 A That's correct.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ █ [REDACTED]

5 Q Okay. And you know that as -- as of
6 today that's true, correct?

7 MR. STANNER: Objection to form.

8 BY MR. RAFFERTY:

9 Q That simply reporting a suspicious order
10 does not relieve the distributor of its
11 responsibility to maintain effective controls
12 against diversion.

13 MR. STANNER: Object to the form.

14 THE WITNESS: I do.

15 BY MR. RAFFERTY:

█ █ [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED] [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ █ [REDACTED]

█ █ [REDACTED]

█ █ [REDACTED]

13 BY MR. RAFFERTY:

14 Q Okay. And in fact, that never changed.

15 I think Mr. Hawal showed you Mr. Rannazzisi's

16 letter. Do you recall that?

17 A There were a couple of them. Is there
18 one in particular that you are referencing?

19 Q 1464.

20 MR. RAFFERTY: Exhibit 1?

21 (Counsel conferring.)

22 THE WITNESS: Exhibit 1?

23 BY MR. RAFFERTY:

24 Q Exhibit 1, yeah.

1 So -- and this is in 2006. So about a
2 year after that presentation we just saw, the DEA
3 was once again -- on page -- I'm sorry, sir,
4 page 2, .2 -- on page 2 is telling McKesson and
5 the other distributors: "In addition to reporting
6 all suspicious orders, a distributor has a
7 statutory responsibility to exercise due diligence
8 to avoid filling suspicious orders that might be
9 diverted into then legitimate, medical
10 scientific -- into other than legitimate, medical,
11 scientific and industrial channels."

12 Do you see that?

13 A I do.

14 Q Okay. And Mr. Rannazzisi, you know who
15 he is, right?

16 A I do.

17 Q Did you work with him at the DEA?

18 A I did.

19 Q Okay. And here he says: "There is a
20 statutory responsibility to exercise due diligence
21 to avoid filling suspicious orders."

22 When you avoid filling a suspicious
23 order, that means you block that suspicious order,
24 correct?

1 MR. SATIN: You're asking him today
2 about what he believes?

3 MR. RAFFERTY: Today.

4 BY MR. RAFFERTY:

5 Q You understand that's what --

6 MR. STANNER: Objection to form.

7 BY MR. RAFFERTY:

8 Q That's what -- when you avoid filling --
9 if McKesson avoids filling a suspicious order,
10 that means they're blocking that order, they're
11 not shipping it.

12 MR. STANNER: Objection to form.

13 THE WITNESS: I'm not sure I understand
14 your question. We -- we do block orders.

15 BY MR. RAFFERTY:

16 Q That isn't my question.

17 Here's my question: It says here that:
18 "There is a statutory responsibility to exercise
19 due diligence to avoid filling suspicious orders?"

20 Right? That's what it says?

21 A I'm not aware of a statutory or
22 regulatory obligation to block and not ship an
23 order. We have -- we have a legal obligation to
24 maintain effective controls against diversion.

1 Q And here, Mr. Rannazzisi at the DEA is
2 saying that you have -- you have a statutory
3 responsibility to avoid filling suspicious orders.
4 That's what he's saying, right?

5 A That's what it says.

6 Q Okay. And you knew this letter had gone
7 out to these distributors, correct?

8 MR. SATIN: Objection pursuant to Touhy.

9 THE WITNESS: I've seen the letter since
10 I've been at McKesson.

11 BY MR. RAFFERTY:

12 Q Had you seen this letter prior to being
13 at McKesson?

14 MR. SATIN: Objection pursuant to Touhy.

15 THE WITNESS: I don't know that I can
16 answer that question at this time.

17 BY MR. RAFFERTY:

18 Q All right. Then in 2007 -- if we look
19 at this, which we will mark as Exhibit 35 --

20 (Plaintiffs' Exhibit No. 35 was
21 marked for identification.)

22 BY MR. RAFFERTY:

23 Q And I'm going to ask you specifically
24 about one particular portion of this.

1 Down at the bottom under -- the Gary
2 Hilliard e-mail dated September 11th, 2007, Do you
3 see that?

4 A I do.

[illegible]

Row	Bar Length (approx. % of total width)
1	95
2	35
3	10
4	45
5	90
6	95
7	95
8	100
9	90
10	95
11	55
12	50
13	35
14	75
15	75
16	100
17	95
18	75
19	95
20	55

20 Q Okay. Well, and you would agree with me
21 today in your working with McKesson, and you would
22 agree that registrants like McKesson that
23 routinely report suspicious orders but fill the
24 orders with reason to believe that they are

█ [REDACTED] [REDACTED]
█ [REDACTED]
█ [REDACTED] █ [REDACTED]

4 McKesson, you have testified, I believe, that you
5 have thought that that obligation was being met;
6 is that true?

7 A Since my -- my time with McKesson, I
8 believe that that's correct, yes.

9 Q Well, have you gone back and looked at
10 whether or not that had been being done since
11 2006?

12 A I did not.

13 Q Okay. In 2006, you would agree that
14 there was a requirement that suspicious orders be
15 reported to the DEA, correct?

16 A I would agree with that, yes.

17 Q Okay. I'm handing you what we're
18 marking as Exhibit 36.

19 (Plaintiffs' Exhibit No. 36 was
20 marked for identification.)

21 BY MR. RAFFERTY:

22 Q And I'm going to represent the first
23 page is something that I -- I typed up and
24 calculated for use of -- in the -- for use in the

1 deposition, because it's a voluminous record there
2 that I'm attaching.

3 I'm also going to hand you -- while
4 we're doing it, I might as well give you the next
5 one too, which is 37.

6 (Plaintiffs' Exhibit No. 37 was
7 marked for identification.)

8 BY MR. RAFFERTY:

9 Q And 36 -- here, if we look at that, I
10 will tell you that this was -- this document, the
11 spreadsheet starting on page 2, was information
12 produced to us by McKesson as the omit reports
13 from 2006 forward.

14 Are you familiar with what omit reports
15 are, sir?

16 A I am.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8 Q In fact, if you go -- you can go all the
9 way to page .9. And if you go down towards the
10 middle of the page --

11 MR. STANNER: So the page -- your page
12 numbers are cut off on ours. Can you give -- is
13 there a Bates or is it all the same?

14 MR. RAFFERTY: 912. Bates 912.

15 MR. STANNER: They're all 912. Sorry.
16 So -- you just got to give us a different marker.
17 The first entry on page 9, I believe is --

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[illegible]

[illegible]

■	■	[REDACTED]
■	[REDACTED]	
■		[REDACTED] [REDACTED]
■	[REDACTED]	[REDACTED]
■	[REDACTED]	[REDACTED]
■		[REDACTED] [REDACTED]
■	[REDACTED]	
■	■	[REDACTED]
■	[REDACTED]	
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■	■ [REDACTED] [REDACTED]
■	[REDACTED]
■	[REDACTED]
■	■ [REDACTED]
■	■ [REDACTED] [REDACTED]
■	[REDACTED]
■	[REDACTED]
■	[REDACTED]
■	[REDACTED]

- [illegible]

1 MR. STANNER: Objection to the form of
2 the question.

3 BY MR. RAFFERTY:

4 Q All right. Now, interestingly --

5 MR. STANNER: Mr. Rafferty, I don't mean
6 to interrupt you, if you're moving on to the next
7 document, we have a new attorney in the room.

8 Can you put your appearance on the
9 record, please?

10 MS. DEFRANCESCO: Absolutely. Lindsay
11 DeFrancesco from Reed Smith for AmerisourceBergen.

12 MR. RAFFERTY: Good.

13 MR. STANNER: Fire away.

14 BY MR. RAFFERTY:

15 Q All right. Now, interestingly, if we
16 look at what we're going to mark as Exhibit 38.

17 (Plaintiffs' Exhibit No. 38 was
18 marked for identification.)

19 MR. RAFFERTY: 1433, Evan.

20 BY MR. RAFFERTY:

21 Q And this may have been marked by
22 Mr. Hawal before, I don't know. This is -- this
23 is the lengthy -- this is the 22, 23 pages --

24 MR. STANNER: You can make it a new one.

1 MR. RAFFERTY: What's that?

2 MR. STANNER: You want to make a new
3 one?

4 MR. RAFFERTY: Yeah, let's just do that.
5 It'll be faster and easier.

6 MR. STANNER: So this is 30 -- 38.

7 BY MR. RAFFERTY:

8 Q Okay. 38, okay.

9 All right. So if we look at this, this
10 is a letter from the Department of Justice,
11 August 2014. You're at McKesson at this point,
12 right?

13 A That's correct.

14 Q And were you made aware of this
15 correspondence when you were at -- while you've
16 been at McKesson?

17 A (Peruses document.)

18 Q Do you recognize it, sir?

19 A (Peruses document.)

20 MR. STANNER: Oh, that -- what's up on
21 the visual and what's here are different
22 documents, at least what we have in our hands.
23 This is dated November 4th, 2014.

24 MR. RAFFERTY: What's the number of it?

1 Oh, that's 1443. I marked the wrong one. I'm
2 sorry. It's 1430 -- it's 1433. I should have
3 marked it. It's my fault.

4 MR. STANNER: Do you want these back?

5 MR. RAFFERTY: Yeah -- well, you can
6 have them. I don't care. We've got plenty.

7 (Counsel conferring.)

8 MR. STANNER: Exhibit 11.

9 MR. RAFFERTY: This is Exhibit -- this
10 is Exhibit 11?

11 MS. MONAGHAN: What is up there is
12 Exhibit 11.

13 MR. RAFFERTY: Okay. Okay. Good. That
14 helps.

15 Okay. Now I'm going --

16 MR. STANNER: Okay.

17 MR. RAFFERTY: Well, if I had gone
18 first, I would've had more time.

19 BY MR. RAFFERTY:

20 Q All right. Now, I'm going to screw
21 things up because I actually had marked the right
22 one. I just pulled my -- my working copy was the
23 wrong one in that file. So now we're going to
24 mark 38.

1 (Plaintiffs' Exhibit No. 38 was
2 remarked for identification.)

3 MR. STANNER: This is --

4 MR. RAFFERTY: This is 38, and this is
5 one that had not --

6 MR. STANNER: This is the one from
7 before?

8 MR. RAFFERTY: Yes.

9 MR. STANNER: Okay. So not that one.

10 MR. RAFFERTY: Right.

11 THE WITNESS: We're looking at the --

12 MR. SATIN: The one, the 38 that we had
13 marked 38 before and then we crossed out, we're
14 going back to that one?

15 MR. RAFFERTY: Yeah.

16 BY MR. RAFFERTY:

Age Group	Percentage
18-24	10%
25-34	15%
35-44	20%
45-54	25%
55-64	30%
65-74	35%
75-84	40%
85+	45%

Government	Percentage
Current government	85%
Previous government	15%

24 Q Which is a part of the Department of

1 Justice, true?

2 A It is, but it's not -- the letter is not
3 from the Department of Justice.

4 Q Okay. And in fact, if we look at this,
5 and we look at the -- it says -- if we look at

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

15 Q Okay. Are you familiar with this
16 document, sir?

17 A I believe I read it before, yes.

18 Q Okay. And in fact, they say it was
19 systemic in that paragraph.

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

- [illegible]

- A horizontal bar chart titled 'Who is responsible for the crisis in Ukraine?' showing the percentage of respondents who believe the current government is responsible. The chart is broken down by age group (18-29, 30-49, 50-69, 70+) and gender (Male, Female). The y-axis lists 20 different age and gender categories. The x-axis represents the percentage of respondents, ranging from 0% to 100%.

Age Group	Gender	Percentage (%)
18-29	Male	100%
	Female	95%
	Male	85%
	Female	40%
30-49	Male	55%
	Female	20%
	Male	85%
	Female	95%
50-69	Male	95%
	Female	95%
	Male	50%
	Female	20%
70+	Male	95%
	Female	95%
	Male	95%
	Female	100%

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13 BY MR. RAFFERTY:

14 Q Now, going to the LDMP you talked about,
15 and so you told Mr. Hawal, you were familiar with
16 the LDMP. Do you recall that?

17 A I -- I've read the documents regarding
18 that to some extent, yes.

19 Q Okay. And in fact, without going
20 through it, you know that the LD -- the LDMP
21 started in 2007, right?

22 A That's my understanding, yes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

The diagram consists of 15 horizontal gray bars of varying lengths and positions, arranged vertically. A vertical dashed line is present on the left side of the bars. The bars are as follows:

- Bar 1: Starts at the dashed line, ends at approximately 80% width.
- Bar 2: Starts at approximately 20% width, ends at approximately 80% width.
- Bar 3: Starts at approximately 20% width, ends at approximately 75% width.
- Bar 4: Starts at the dashed line, ends at approximately 35% width.
- Bar 5: Starts at approximately 20% width, ends at approximately 85% width.
- Bar 6: Starts at the dashed line, ends at approximately 25% width.
- Bar 7: Starts at approximately 20% width, ends at approximately 95% width.
- Bar 8: Starts at the dashed line, ends at approximately 30% width.
- Bar 9: Starts at approximately 20% width, ends at approximately 90% width.
- Bar 10: Starts at the dashed line, ends at approximately 88% width.
- Bar 11: Starts at the dashed line, ends at approximately 95% width.
- Bar 12: Starts at the dashed line, ends at approximately 83% width.
- Bar 13: Starts at approximately 28% width, ends at approximately 50% width.
- Bar 14: Starts at approximately 53% width, ends at approximately 71% width.
- Bar 15: Starts at approximately 75% width, ends at approximately 87% width.
- Bar 16: Starts at the dashed line, ends at approximately 37% width.
- Bar 17: Starts at approximately 20% width, ends at approximately 64% width.
- Bar 18: Starts at approximately 28% width, ends at approximately 50% width.
- Bar 19: Starts at approximately 53% width, ends at approximately 85% width.
- Bar 20: Starts at approximately 89% width, ends at 100% width.
- Bar 21: Starts at approximately 28% width, ends at approximately 50% width.
- Bar 22: Starts at approximately 53% width, ends at approximately 66% width.
- Bar 23: Starts at approximately 28% width, ends at approximately 46% width.
- Bar 24: Starts at approximately 50% width, ends at 100% width.
- Bar 25: Starts at approximately 28% width, ends at approximately 50% width.
- Bar 26: Starts at approximately 53% width, ends at approximately 82% width.

20 BY MR. RAFFERTY:

21 Q Do you know whether or not the LDMP --
22 if we look at exhibit -- I don't know what the
23 LDMP was, so --

24 MR. SATIN: I don't -- I actually don't

[illegible]

23 MR. RAFFERTY: Okay. Let's look
24 at 1829. 1829. And mark that as Exhibit 40.

1 (Plaintiffs' Exhibit No. 40 was
2 marked for identification.)

3 BY MR. RAFFERTY:

4 Q And if you look at this, this is a
5 letter to the Associate Chief Counsel, Diversion
6 and Regulatory Litigation Section, DEA, back in
7 April of 2007. Do you see that?

8 A I do.

[REDACTED]

- [illegible]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

8 MR. RAFFERTY: Okay. So let's mark 2112

9 as Exhibit 41.

10 (Plaintiffs' Exhibit No. 41 was

11 marked for identification.)

12 BY MR. RAFFERTY:

13 Q Another very small spreadsheet. And

14 this, I'll represent to you, is information from

15 the ARCOS database, Mr. Boggs.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

Category	Percentage
U.S. should take action to address climate change	85%
U.S. should not take action to address climate change	14%
U.S. should reduce greenhouse gas emissions	85%
U.S. should not reduce greenhouse gas emissions	14%
U.S. should invest in renewable energy	85%
U.S. should not invest in renewable energy	14%
U.S. should protect the environment	85%
U.S. should not protect the environment	14%
U.S. should support international climate agreements	85%
U.S. should not support international climate agreements	14%

13 BY MR. RAFFERTY:

14 Q Okay. And, in fact, there is no due
15 diligence -- there's no indication that any due
16 diligence had been done on this particular
17 pharmacy for these orders, and in that regard,
18 that would be not maintaining -- McKesson not
19 maintaining effective controls against diversion,
20 correct?

21 MR. STANNER: Objection to the form.

22 Assumes facts, misstates, vague --

23 THE WITNESS: I don't know if there was
24 due diligence done or not.

1 BY MR. RAFFERTY:

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

■ [REDACTED]

9 BY MR. RAFFERTY:

10 Q But if --

11 A I have no idea what was done or not.

12 This is way before my time.

13 Q But if there wasn't, that would concern
14 you, correct?

15 MR. STANNER: Objection to form.

16 THE WITNESS: It might. I don't know
17 what was known.

18 BY MR. RAFFERTY:

19 Q And it's important -- you would agree --
20 I think you told Mr. Hawal earlier in the day that
21 it's important to document that due diligence is
22 being done.

23 You would agree with that, true?

24 MR. STANNER: Objection to form.

1 THE WITNESS: I think it's important to
2 do that, yeah.

3 BY MR. RAFFERTY:

4 Q Okay. Now, if we look at one particular
5 pharmacy.

6 MR. RAFFERTY: How much time have I
7 used?

8 THE VIDEOGRAPHER: You have four
9 minutes --

10 MR. RAFFERTY: Four minutes. All right.

11 BY MR. RAFFERTY:

12 Q You understood there were some red flags
13 -- you understand what the concept of red flags
14 are in terms of diversion, correct?

15 A I do.

16 Q And some of those red flags are, for
17 example, if a pharmacy is in a geographic area
18 where there's historical -- there's been a
19 historical high amount of abuse or usage of
20 opioids, correct?

21 MR. STANNER: Objection to form.

22 THE WITNESS: That -- that can be a red
23 flag, yes.

24 BY MR. RAFFERTY:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 Q Okay.

13 MR. RAFFERTY: If we look at
14 Exhibit 1891.

15 MR. STANNER: Sorry, are you handing us
16 one?

17 MR. RAFFERTY: No, I say that for Evan's
18 purposes. I'm sorry.

19 No, you know what, let's look at --
20 let's look at 1865, Evan.

21 And this will be Exhibit 42.

22 (Plaintiffs' Exhibit No. 42 was
23 marked for identification.)

24 MR. STANNER: Thank you.

1 BY MR. RAFFERTY:

■ ■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED] [REDACTED]

■ [REDACTED]

14 BY MR. RAFFERTY:

15 Q Okay. If we look at what we've marked
16 as Exhibit 42, I'll represent to you this is a
17 document discussing a pharmacy in Warren, Ohio.

18 Do you know where Warren, Ohio, is?

19 A In Ohio. I don't know -- I don't know
20 exactly where in Ohio it is.

21 Q It's approximately 56 miles, as I
22 calculated on my phone, from Cleveland.

23 A Okay.

24 Q Okay. So it says here in this one, if

- [illegible]

[REDACTED]

[REDACTED]

[REDACTED]

4 Q Leakage, what is that?

5 A Leakage, as I understand it, would be a
6 customer's need that -- hypothetically, they
7 needed 15,000 doses, they bought 10,000 from us
8 and maybe 5,000 from Cardinal or ABC. That would
9 be -- the 5,000 would be the leakage."

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

16 BY MR. RAFFERTY:

17 Q Okay. All right. Then if we go --
18 that's 2007.

19 And then if we look at -- and this is a
20 time period that the LDMP is established, correct,
21 November 2007?

22 A I believe around that time frame, yes.

[REDACTED]

[REDACTED]

■ [REDACTED]

■ [REDACTED]

3 MR. STANNER: Objection to form.

4 BY MR. RAFFERTY:

5 Q We saw that in the policy.

6 MR. STANNER: Same objection, prior two
7 questions.

8 MR. RAFFERTY: Okay. And then if we
9 look at 1881, Evan. And mark that as Exhibit 43.

10 (Plaintiffs' Exhibit No. 43 was
11 marked for identification.)

12 BY MR. RAFFERTY:

13 Q It says here January 2009. Do you see
14 that?

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 MR. RAFFERTY: Okay. Well, let's take a
10 look at 1876. 1876 is -- 1876. We'll mark it as
11 Exhibit 44.

12 (Plaintiffs' Exhibit No. 44 was
13 marked for identification.)

14 BY MR. RAFFERTY:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21 Q And it says 35.65 controls to Rx
22 purchased, and 31.25 oxy percentage of controls,
23 and that's high, isn't it?

24 MR. STANNER: Objection to form.

1 THE WITNESS: Not just on the surface,
2 no.

3 BY MR. RAFFERTY:

4 Q Oh, okay. Well, it says at the top:
5 "We are going to set up CSMP visits for all of the
6 accounts below. This is based on Joel Lumpkin's
7 monthly reports. The first column represents
8 higher than normal controls percent to total
9 purchases. The second column represents" -- this
10 would be IMSMC over 25 percent. "The second
11 column represents high OxyContin purchases to
12 total control purchases (this is over 25
13 percent)."

14 Do you see that?

15 A I do.

16 Q So according to this, it's high, and
17 that's why it's being flagged, correct?

18 MR. STANNER: Objection to form.

19 THE WITNESS: I don't know what the
20 purpose of it is.

21 MR. RAFFERTY: Okay. Well, let's look
22 at 1912 now. This is Exhibit 45.

23 (Plaintiffs' Exhibit No. 45 was
24 marked for identification.)

1 BY MR. RAFFERTY:

2 Q And here, it says -- this is to Gary
3 Boggs from Gary Davis. So does this reflect
4 your -- or refresh your memory that you're
5 familiar with this Franklin Pharmacy?

6 A No, I --

7 MR. STANNER: Objection to form.

8 BY MR. RAFFERTY:

The diagram consists of 15 horizontal bars of varying lengths and positions, arranged in a sequence from top to bottom. The bars are colored in a light gray color. The first bar is the longest and starts at the left edge. The second bar is shorter and starts further to the right. The third bar is the longest again, starting at the left edge. The fourth bar is shorter and starts further to the right. The fifth bar is the longest again, starting at the left edge. The sixth bar is shorter and starts further to the right. The seventh bar is the longest again, starting at the left edge. The eighth bar is shorter and starts further to the right. The ninth bar is the longest again, starting at the left edge. The tenth bar is shorter and starts further to the right. The eleventh bar is the longest again, starting at the left edge. The twelfth bar is shorter and starts further to the right. The thirteenth bar is the longest again, starting at the left edge. The fourteenth bar is shorter and starts further to the right. The fifteenth bar is the longest again, starting at the left edge.

- [illegible]

[illegible]

21 It says at the top, "In 2013, the
22 population of Warren was listed at 40,768,"
23 correct?

24 A It does.

[illegible]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]

4 MR. STANNER: Objection to the form of
5 the question. Objection to the "you."

6 MR. SATIN: And it's a foundational
7 question.

8 BY MR. RAFFERTY:

9 Q True?

10 MR. SATIN: You haven't established that
11 he was the one doing the shipping, sir.

12 MR. RAFFERTY: McKesson.

13 MR. STANNER: Same objections.

14 THE WITNESS: I'm trying to put this in
15 proper perspective for me to understand --

16 BY MR. RAFFERTY:

17 Q I'm asking -- you don't get to ask --
18 you don't get to rephrase my question.

19 MR. STANNER: Excuse me. You can't talk
20 over him. You asked the question. He's giving
21 you the answer.

22 MR. RAFFERTY: No, he's not. He is
23 giving his answer he wants to give.

24 MR. STANNER: You didn't even -- you

1 things -- I also want to make sure our position on
2 the record is that if for some reason there is no
3 ability to ask the Touhy questions, that we then
4 are reserving the right to come back and finish up
5 the time.

6 MR. STANNER: And we would object to
7 that.

8 The witness is here. If you have
9 non-Touhy questions, you should feel free to ask
10 them.

11 MR. RAFFERTY: All right. So how much
12 time do we have left?

13 THE VIDEOGRAPHER: Six hours and 12
14 minutes is currently used on the record.

15 MR. RAFFERTY: 48 minutes.

16 THE VIDEOGRAPHER: Do you want to go
17 back on -- off the record?

18 MR. RAFFERTY: Off the record, yeah.
19 I'm sorry.

20 THE VIDEOGRAPHER: The time is 5:09 p.m.
21 We're going off the record.

22 (Recess.)

23 THE VIDEOGRAPHER: The time is 5:19 p.m.
24 We're back on the record.

1 CROSS-EXAMINATION

2 BY MR. STANNER:

3 Q Mr. Boggs, good evening.

4 A Good evening.

5 Q I want to ask you briefly about your
6 career before McKesson. How long did you work at
7 the DEA?

8 A Probably a little over 27 years.

9 Q Okay. And why did you decide to leave
10 your position at the DEA?

11 A As a special agent for the government,
12 they have mandatory retirement at age 57. There
13 are some exceptions that you can get a waiver,
14 which I was given a waiver for one year. I worked
15 for about six or so months into that waiver, and
16 then I decided that I wanted to retire and spend
17 more time with my grandchildren and my daughter.

18 Q And how long were you retired before you
19 started to work again?

20 A I retired the end of June of 2012. I
21 started doing some consulting probably around the
22 summer of 2013.

23 Q And before you were at the DEA, what was
24 your job before that?

1 A Before the DEA, I was a deputy sheriff
2 in Orange County, Florida, for about eight and a
3 half years.

4 Q What did you do before that?

5 A College student.

6 Q Mr. Boggs, I want to ask you some
7 questions about diversion. What is diversion?

8 A Diversion is the act of taking
9 pharmaceutical controlled substances out of the
10 closed system of distribution or from legitimate
11 channels, patients, and then moving them into --
12 outside of that for abuse.

13 Q And at McKesson, is it your
14 responsibility to prevent diversion?

15 A Well, we can certainly present --
16 prevent -- try to prevent some of diversion. We
17 certainly are not able to prevent all diversion.

18 Q Well, why can't you prevent all
19 diversion?

20 A Diversion can occur at different levels
21 outside of the distribution's control. Diversion
22 can occur at a pharmacy by an employee pilfering
23 it. It can occur by a pharmacy being burglarized
24 or robbed. Diversion can occur even after

1 controlled substances have left with a legitimate
2 patient and are sitting in a medicine cabinet of
3 someone's home, and someone steals them out of
4 that medicine cabinet, that's diversion. We
5 certainly can't control that.

6 Q Everything you just described is a
7 crime. Is that -- is there diversion other than
8 crime?

9 A No, diversion --

10 MR. RAFFERTY: Objection.

11 THE WITNESS: Diversion is a crime.

12 MR. STANNER: Sorry, can you tell me the
13 basis?

14 MR. RAFFERTY: Well, I think it's lack
15 of foundation.

16 MR. STANNER: Oh, okay. I'll try and
17 lay a foundation then.

18 BY MR. STANNER:

19 Q Is diversion crime?

20 A In my opinion, it is, yes.

21 Q Is it always a crime?

22 A Yes.

23 Q Okay. So in your capacity at McKesson,
24 when you say you try to limit diversion, does that

1 mean you're trying to limit crime?

2 A I'm sorry, could you repeat the
3 question?

4 Q Sure. In your -- at McKesson, when you
5 say you -- part of your role is to try to limit
6 diversion, does that mean you're trying to limit
7 crime?

8 A It means we're trying to identify or
9 prevent situations where a crime would occur. As
10 I said earlier, we have security measures in our
11 facility to prevent employee pilferage. If the --
12 if a rogue employee was to pilfer, that would be a
13 crime.

14 Q And can you describe, what is a
15 diversion trend?

16 A There's different types of schemes that
17 can occur that would cause a -- what I would
18 consider a trend. We've -- we've seen diversion
19 trends, such as rogue internet pharmacies, be a
20 diversion trend. It's a massive criminal scheme.
21 We've seen pill mills in Florida. That's a
22 diversion trend and is a criminal scheme.

23 Q Are pill mills still a problem?

24 MR. RAFFERTY: Objection.

1 THE WITNESS: There are still some pill
2 mills that can be a rogue pain management facility
3 or something to that nature, yes.

4 BY MR. STANNER:

5 Q Okay. Is that -- is that a diversion
6 trend that you're particularly focused on now?

7 A We try to focus on anything within our
8 ability to prevent diversion, and we see some pain
9 management clinics that are rogue. We see some
10 specifically bad doctors. They're -- they're
11 certainly not in the same context as what we knew
12 like the Florida pill mills to be, they're nothing
13 like that at all.

14 Q Okay. What are diversion trends that
15 are occurring -- that have been occurring since
16 your time at McKesson?

17 A Well, first, they're vastly different
18 than before. They're looking at the pharmacies
19 where the pharmacists or their staff may not be
20 exercising appropriate due diligence. That can be
21 one -- one area that we look at. We certainly
22 still continue security measures around our
23 facility.

24 Q Well, what -- what do you do to keep

1 abreast of diversion trends?

2 A I read anything on the internet that I
3 can identify as diversion trends. I read the
4 National Survey on Drug Use and Health. I read
5 the DEA's annual report that they would put out on
6 their website on drug -- the national drug trend.
7 We attend conferences such as the National
8 Association of Drug Diversion Investigator
9 conferences, the National Association of State
10 Controlled Substance Authority, associations -- we
11 attend those conferences. We attend other
12 conferences where DEA might be a keynote speaker
13 or break- -- have presentations at breakout
14 groups.

15 Q What if a doctor writes a large
16 prescription, is that diversion?

17 A It can be. It may not be. The mere
18 fact that it's large in and of itself doesn't mean
19 that it's diversion. For the -- part of the
20 opioid epidemic has been fueled by
21 overprescribing. That's not illegal prescribing
22 but it's overprescribing.

23 Q Can you explain what the difference --
24 you just used two different terms,

1 "overprescribing" and "illegal prescribing." Can
2 you explain what you mean by those?

3 A Sure. Illegal prescribing would be when
4 a doctor would be complicit in a scheme that they
5 know the patient doesn't need it, the patient is
6 paying in cash, the doctor writes a prescription
7 for a patient they've never seen before or
8 examined before. The doctor meets -- meets
9 someone in a parking lot and writes a prescription
10 in exchange for money. Those would be illegal
11 prescriptions.

12 Overprescribing, on the other hand,
13 might be a situation where a doctor has a
14 legitimate patient, has a legitimate need for the
15 drugs, but instead of writing that prescription
16 for, say, 15 days, they write it for 30 days.
17 It's a perfectly legitimate prescription but it's
18 overprescribing. It's prescribing more than what
19 that patient would need.

20 Q Can you give a -- can you give the jury
21 an example of a prescription that might be
22 overprescription -- that might be an
23 overprescription without being diversion?

24 A Sure. You might have a patient go to a

1 dentist and have a tooth -- tooth extraction, and
2 the patient needs the medication for maybe a
3 couple of days, but the doctor writes it for
4 30 days. That's overprescribing.

5 Q So does the -- does McKesson's
6 compliance program target overprescribing, as
7 you've just described it?

8 A It -- it can't.

9 Q Why not?

10 A We don't see the prescription. We're
11 prohibited by law under HIPAA from knowing
12 anything about the patient or any consultation
13 between the patient and the doctor, and we don't
14 have access to prescription -- the prescription
15 itself.

16 Q You were asked some questions earlier
17 today about towns that received larger volumes of
18 pills relative to their population. Do you
19 remember some of those questions?

20 A I do.

21 Q Do you know if those numbers are the
22 result of diversion or of overprescribing?

23 A I don't.

24 MR. RAFFERTY: Objection.

1 BY MR. STANNER:

2 Q If -- if you know, do you -- do you know
3 if those numbers are the result of prescribing --
4 overprescribing or diversion?

5 A It could be a combination of both.

6 Q Are you able to say with any specificity
7 how much overprescribing is part of the problem
8 versus diversion?

9 A I -- it would be my experience that a --
10 a very large percentage of opioids that are out
11 there are -- are through overprescribing.

12 MR. RAFFERTY: Objection.

13 BY MR. STANNER:

14 Q While at McKesson, has your role
15 included responsibility for submitting suspicious
16 order reports?

17 A It has.

18 Q What is a suspicious order?

19 A A suspicious order would be an order
20 placed by the customer that is -- has been deemed
21 as an order of unusual size, an order that
22 deviated substantially from a normal pattern or
23 frequent -- unusual frequency.

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

6 Q Mr. Boggs, I'll rephrase.

7 Mr. Boggs, do you know how many
8 suspicious orders McKesson reports to the DEA in a
9 typical month?

10 MR. RAFFERTY: Objection.

11 THE WITNESS: Thousands.

[REDACTED]

[REDACTED] [REDACTED]

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A horizontal bar chart titled "Percentage of respondents who believe the U.S. should take action to address climate change." The chart displays data for two main categories: "All respondents" and "U.S. adults", each further broken down by "Age group" and "Gender". The x-axis represents the percentage, ranging from 0 to 100. The y-axis lists the categories. The bars are color-coded: blue for "All respondents", orange for "U.S. adults", and light blue for "All respondents" and light orange for "U.S. adults". The data shows that a majority of respondents in both groups believe the U.S. should take action to address climate change, with the highest percentages in the "All respondents" group.

Category	Age group	Gender	Percentage
All respondents	18-29	Male	78%
		Female	82%
	30-49	Male	75%
		Female	80%
50-64	Male	72%	
	Female	78%	
65+	Male	68%	
	Female	75%	
U.S. adults	18-29	Male	75%
		Female	80%
	30-49	Male	72%
		Female	78%
50-64	Male	68%	
	Female	75%	
65+	Male	65%	
	Female	72%	

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A horizontal bar chart with 20 rows. Each row features a small gray square on the left, followed by a gray bar of varying length. The bars represent different categories or values, with some having additional smaller bars or segments.

Row	Bar 1 (Start)	Bar 1 (End)	Bar 2 (Start)	Bar 2 (End)
1	0	95		
2	0	95		
3	0	93		
4	20	100		
5	0	91		
6	0	91		
7	20	45		
8	20	100		
9	0	50		
10	20	100		
11	0	88		
12	0	86		
13	0	95		
14	0	79	82	93
15	0	100		
16	0	93		
17	0	73	76	95
18	0	69	73	95
19	0	95		
20	0	80		

21 Q So, Mr. Boggs, I'm going to show you
22 what I will mark here as Exhibit 47. This is
23 Bates No. MCKMDL00616425.

24 MR. STANNER: Here's some copies for

[illegible]

- [illegible]

- [illegible]

- [illegible]

- **Abstract**
- **Introduction**
- **Methods**
- **Results**
- **Discussion**
- **Conclusion**
- **References**
- **Appendix**
- **Figure 1**
- **Figure 2**
- **Figure 3**
- **Figure 4**
- **Figure 5**
- **Figure 6**
- **Figure 7**
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Category	Percentage
1. Very high	100%
2. High	100%
3. Medium	100%
4. Low	100%
5. Very low	100%
6. Not at all	100%
7. Don't know	100%
8. No answer	100%
9. No opinion	100%
10. No response	100%
11. No data	100%
12. No information	100%
13. No access	100%
14. No contact	100%
15. No communication	100%
16. No interaction	100%
17. No participation	100%
18. No involvement	100%
19. No engagement	100%
20. No contribution	100%
21. No input	100%
22. No output	100%
23. No result	100%
24. No achievement	100%
25. No success	100%
26. No failure	100%
27. No loss	100%
28. No gain	100%
29. No benefit	100%
30. No harm	100%
31. No risk	100%
32. No danger	100%
33. No threat	100%
34. No danger	100%
35. No risk	100%
36. No harm	100%
37. No benefit	100%
38. No gain	100%
39. No loss	100%
40. No failure	100%
41. No success	100%
42. No achievement	100%
43. No result	100%
44. No output	100%
45. No input	100%
46. No contribution	100%
47. No engagement	100%
48. No involvement	100%
49. No participation	100%
50. No interaction	100%
51. No communication	100%
52. No contact	100%
53. No access	100%
54. No information	100%
55. No data	100%
56. No response	100%
57. No opinion	100%
58. No answer	100%
59. Don't know	100%
60. Not at all	100%
61. Low	100%
62. Medium	100%
63. High	100%
64. Very high	100%

17 Q Do you think that McKesson takes its --
18 its obligations -- its regulatory obligations
19 seriously?

20 A I do. In fact, if I didn't think they
21 did, I wouldn't work for them.

22 Q Well, when you went to work for them,
23 did you have -- was it -- was it your impression
24 that they took the regulatory obligations

1 seriously then?

2 A It was my understanding that they -- I
3 mean they hired me. That was an example that they
4 were taking their regulatory obligations
5 seriously. People that I had talked to during the
6 consulting periods of time, I was -- the
7 impression I had was that McKesson took the
8 regulatory obligations seriously.

9 Q When you say the people that you -- took
10 their regulatory obligations seriously, who -- who
11 do you have in mind? Did you -- did you ever
12 meet, for example, Don Walker?

13 A I did.

14 Q What were your impressions of Don
15 Walker?

16 MR. RAFFERTY: Objection.

17 THE WITNESS: That he was attempting to
18 do the right thing and he took his regulatory
19 obligations seriously. He hired me for
20 consulting, and then ultimately hired me in the
21 role that I'm in now.

22 BY MR. STANNER:

23 Q Have you ever seen anything in your time
24 at McKesson that makes you think that McKesson

1 would prioritize profits over following the law?

2 A I have not.

3 Q In your time at McKesson, have you ever
4 suggested terminating a customer and had the
5 company push back on that?

6 A I have not. They -- I have unilateral
7 authority to terminate a customer regardless of
8 any financial gain or loss to the company or
9 financial gain or loss to the -- to the customer.
10 And since I've been at McKesson, our program has
11 probably stopped shipping to 250-some-odd
12 customers.

The diagram consists of 12 horizontal gray bars of varying lengths and positions, arranged vertically. The bars are as follows:

- Bar 1: Short, left-aligned.
- Bar 2: Long, spanning most of the width.
- Bar 3: Medium, left-aligned.
- Bar 4: Short, left-aligned.
- Bar 5: Medium, left-aligned.
- Bar 6: Short, left-aligned.
- Bar 7: Medium, left-aligned.
- Bar 8: Short, left-aligned.
- Bar 9: Medium, left-aligned.
- Bar 10: Short, left-aligned.
- Bar 11: Medium, left-aligned.
- Bar 12: Long, spanning most of the width.

- [illegible]

- [illegible]






























5 Q You were -- are you familiar with

6 Franklin Pharmacy in Warren, Ohio?

7 A The one we spoke about earlier, yes.



Age Group	Percentage
18-24	~5%
25-34	~35%
35-44	~25%
45-54	~20%
55-64	~15%
65-74	~10%
75-84	~8%
85+	~5%

☐ _____

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 MR. STANNER: Nothing further.

13 (A discussion was held off the record.)

14 THE VIDEOGRAPHER: You want to go off
15 the record?

16 MR. RAFFERTY: Let's Go off the record,
17 yeah.

18 THE VIDEOGRAPHER: The time is 5:58 p.m.
19 We're going off the record.

20 (Recess.)

21 THE VIDEOGRAPHER: The time is 6:07 p.m.
22 We're back on the record.

23 MR. RAFFERTY: Before I get started on
24 behalf of plaintiffs, does anyone else on the line

1 or present have any questions of the witness?

2 And by virtue of everyone's silence,
3 I'll proceed.

4 REDIRECT EXAMINATION

5 BY MR. HAWAL:

6 Q Mr. Boggs, how many other former DEA
7 representatives or agents are now employed at
8 McKesson besides yourself, if you can estimate?

9 A About six or seven.

10 Q Does that include former DEA attorneys
11 as well as agents?

12 A It did not, but there -- we -- there's
13 one.

14 Q Just one. And before 2013, do you know
15 whether any DEA agents were employed at McKesson,
16 former DEA agents?

17 A There's a -- was a diversion
18 investigator, not a DEA agent, that was employed
19 by --

20 Q Just one?

21 A -- prior to my arrival, yes.

22 Q Just one. Okay.

23 Well, I heard you say that a company
24 like McKesson cannot prevent all diversion. Is

1 this deposition?

2 MR. STANNER: Objection to the form.

3 THE WITNESS: That's correct.

4 BY MR. HAWAL:

[illegible]

- [illegible]

[illegible]

[illegible]

10 of 10

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Response	Percentage
U.S. should take more action to address climate change	85%
U.S. should take less action to address climate change	15%

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[illegible]

[illegible]

- [REDACTED]
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 BY MR. HAWAL:

11 Q You're aware, as we discussed earlier,
12 that McKesson ended up paying a \$150 million fine
13 or penalty as a result of these types of
14 administrative proceedings that were initiated
15 against it by the Department of Justice and the
16 DEA --

17 MR. STANNER: Objection to form.

18 BY MR. HAWAL:

19 Q -- right?

20 MR. STANNER: Objection to form.

21 THE WITNESS: The \$150 million fine
22 would be associated for not reporting suspicious
23 orders.

24 BY MR. HAWAL:

1 Q And that's exactly what it wasn't doing
2 in these examples, right?

3 MR. STANNER: Same objection.

4 THE WITNESS: According to the document,
5 that's correct, yes.

6 BY MR. HAWAL:

7 Q Which you have no basis to refute as you
8 sit here today, right?

9 A I do not.

10 MR. STANNER: Same objections.

11 BY MR. HAWAL:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Horizontal bar chart showing the percentage of respondents who believe that the current government is responsible for the economic crisis in the United States. The chart is divided into two main categories: 'Responsible' and 'Not responsible'. The 'Responsible' category is further divided into 'Democrat' and 'Republican'. The 'Not responsible' category is further divided into 'Democrat' and 'Republican'. The chart shows that a majority of respondents believe the current government is responsible for the economic crisis, with Democrats being more likely to hold this view than Republicans.

Category	Sub-category	Percentage
Responsible	Democrat	65%
	Republican	55%
Not responsible	Democrat	35%
	Republican	45%

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 Q So if diversion occurs, it's your
13 position that it's the pharmacy's fault, not the
14 distributor's fault, right?

15 MR. STANNER: Objection to the form.
16 Misstates.

17 BY MR. HAWAL:

18 Q Is that your testimony?

19 MR. STANNER: Same objection.

20 THE WITNESS: Well, I think we were
21 assuming that on some of these that diversion was
22 occurring when we don't even know that there's not
23 evidence in here that diversion was actually
24 occurring. In some -- some of them there is, and

1 some of them there's no information that diversion
2 has ever occurred at these locations.

3 BY MR. HAWAL:

[illegible]

[illegible]

[illegible]

5 MR. HAWAL: Move to strike as

6 nonresponsive.

7 MR. STANNER: Objection.

8 BY MR. HAWAL:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14 BY MR. HAWAL:

15 Q Well, you can certainly answer the fact
16 that Mr. Rannazzisi, by virtue of the letters that
17 he wrote, he considered suspicious order reports
18 important and valuable, true?

19 MR. STANNER: Objection.

20 BY MR. HAWAL:

21 Q By virtue of what he put in the letters
22 that you saw, Exhibit 1 and Exhibit 2 or 3.

23 MR. STANNER: Objection to the form.

24 THE WITNESS: I -- I understand what was

1 in the letters in terms of what he thought about
2 it, and I would suggest --

3 BY MR. HAWAL:

4 Q It spoke -- spoke for itself.

5 THE REPORTER: You didn't get the rest
6 out.

7 THE WITNESS: Yeah. I would suggest if
8 you want to know what he was thinking about that,
9 you might have to ask him.

10 BY MR. HAWAL:

11 Q Well, it's evident from the letters that
12 he wrote what he was thinking, true?

13 MR. STANNER: Objection to the form.

14 THE WITNESS: I -- I will take the
15 letter at face value, yes.

16 BY MR. HAWAL:

17 Q And he was your supervisor, correct?

18 A He was.

19 Q He was the head of the Department of
20 Diversion Control at the DEA the entire time you
21 were in that department, true?

22 A He was.

23 Q And in terms of Mr. Rannazzisi's
24 letters, would -- do you believe it's unusual that

1 he would have to send repetitive letters to
2 wholesalers to remind them of their obligations
3 under the Controlled Substances Act and their
4 obligations to send suspicious order reports to
5 the DEA if he didn't believe that that was an
6 important part of their obligation?

7 MR. STANNER: Object to the form.

8 MR. SATIN: Objection pursuant to Touhy,
9 don't answer that question.

10 BY MR. HAWAL:

11 Q As you sit here today, and based on what
12 you know and what you've seen in those letters, do
13 you believe that he would have sent those letters
14 if he did not have concerns about McKesson's and
15 other distributors' failures to live up to their
16 obligations under the Controlled Substances Act?

17 MR. STANNER: Object to the form of the
18 question.

19 MR. SATIN: Objection pursuant to Touhy
20 to the extent it still relies -- the answer relies
21 on the information you obtained at that time when
22 you were at the DEA.

23 THE WITNESS: I don't believe I can
24 answer that question at this time.

1 BY MR. HAWAL:

2 Q Well, since you've left the DEA, has --
3 has Mr. Rannazzisi or any other DEA representative
4 sent McKesson a letter saying, We don't want your
5 suspicious order reports, they're of no value to
6 us? Has that ever happened?

7 A I'm not familiar with any letters that
8 have that, no.

9 Q If those letters did go to the -- to
10 McKesson, you would know about it, wouldn't you?

11 MR. STANNER: Object -- object to the
12 form of the question.

13 BY MR. HAWAL:

14 Q Wouldn't you?

15 A I would hope so, yes.

16 Q Now, you testified that you send
17 suspicious order reports that -- that you believe
18 are legitimate suspicious -- represent suspicious
19 orders to the DEA as well as suspicious order
20 reports that you don't believe represent or are
21 suspicious. Is that -- is that your statement --
22 was that your testimony?

23 A I don't believe that was my testimony at
24 all.

1 Q Well, I thought you said that you --
2 with Exhibit -- I can't remember the number, but
3 the exhibit that your counsel referenced --

4 MR. STANNER: Exhibit 47.

5 BY MR. HAWAL:

The diagram consists of 10 horizontal bars of varying lengths, arranged in a staggered fashion. The bars are represented by the following approximate coordinates (assuming a 1000x1000 grid):

Bar Index	Start X	End X
1	200	1000
2	90	1000
3	90	930
4	90	400
5	200	675
6	290	510
7	545	950
8	290	510
9	545	965
10	290	510

13 BY MR. HAWAL:

14 Q Oh, okay. Well, did you believe it was
15 a suspicious order?

16 A I believe it was a suspicious order as
17 that is defined in the regulation, yes.

[illegible]

■ ■■■■

2 BY MR. HAWAL:

3 Q But you were -- you also would send
4 reports to the DEA that you thought could
5 represent diversion -- suspicious order reports
6 that could represent diversion, true?

7 A I --

8 MR. STANNER: Objection to the form.

9 THE WITNESS: I don't believe I said
10 that at all.

11 BY MR. HAWAL:

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[REDACTED]

[REDACTED]

9 BY MR. HAWAL:

10 Q In any event, wholesalers like McKesson
11 play an integral part of the efforts at preventing
12 diversion. True?

13 A I believe we --

14 MR. STANNER: Objection to form.

15 THE WITNESS: -- play an important part.

16 BY MR. HAWAL:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

8 BY MR. HAWAL:

9 Q What are you -- are you -- are you
10 telling us what you understood as a DEA agent at
11 that time? Where are -- where are you getting
12 that information from?

13 MR. STANNER: Objection. Counsel,
14 you've asked him to speculate.

15 MR. HAWAL: Well, I understand, but
16 he's -- he's now telling -- I think he's giving us
17 information in violation of Touhy without his
18 counsel even objecting to it.

19 MR. SATIN: Well, then maybe -- I don't
20 believe so. I thought your question was asking
21 for him based on his time at McKesson to be
22 evaluating what he understood McKesson was doing
23 during those years that he learned in the course
24 of his work at McKesson.

[illegible]

Response	Percentage
Yes, the U.S. should take action to address climate change	85%
No, the U.S. should not take action to address climate change	15%

Response	Percentage
Yes	85%
No	10%
Don't know	5%

5 BY MR. HAWAL:

6 Q And do you have any documents from the
7 DEA indicating otherwise?

8 MR. STANNER: Objection to form.

9 THE WITNESS: Not to my knowledge, no.

10 BY MR. HAWAL:

Response	Percentage
Yes	92%
No	8%

■ [REDACTED]

2 BY MR. HAWAL:

3 Q Were any of the answers that you gave in
4 your direct examination by your counsel informed
5 by information that you gained as a DEA
6 representative?

7 MR. STANNER: Objection to the form of
8 the question.

9 THE WITNESS: Not that I recall, no.

10 MR. STANNER: Can I ask how long we've
11 been on the record?

12 THE VIDEOGRAPHER: 30 minutes.

13 MR. SATIN: And I think the last
14 question asked about direct examination by his
15 counsel. I never asked him any questions.

16 MR. HAWAL: Yes.

17 MR. SATIN: You're asking about the
18 direct examination that counsel for McKesson made.

19 MR. HAWAL: Well, Counsel -- yeah,
20 Counsel --

21 BY MR. HAWAL:

22 Q Let me ask you this, Mr. Boggs. In your
23 preparation sessions for this deposition, were you
24 with counsel for McKesson?

1 A I was.

2 Q Okay.

3 (Plaintiffs' Exhibit No. 49 was
4 marked for identification.)

5 BY MR. HAWAL:

6 Q I'm going to hand you what's been marked
7 as Exhibit 49, which is some e-mails in two
8 thousand -- March of 2014, when you were with --
9 an employee of McKesson.

The diagram consists of 15 horizontal gray bars of varying lengths and positions, arranged vertically. The bars represent a sequence of data points or events over time. The bars vary in their start and end points along a horizontal axis, with some overlapping and others being isolated.

Bar Index	Start Position (approx. %)	End Position (approx. %)
1	28	100
2	8	96
3	8	18
4	21	78
5	82	87
6	8	94
7	8	96
8	8	82
9	28	98
10	8	87
11	8	71
12	75	96
13	28	50
14	53	71
15	8	32

- [illegible]

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| 97 | 97 | 97 | 97 |
| 98 | 98 | 98 | 98 |
| 99 | 99 | 99 | 99 |
| 100 | 100 | 100 | 100 |

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 BY MR. HAWAL:

10 Q So it's about documentation.

11 A Documentation is a requirement of it.

12 And if the customer had a legitimate need for
13 that --

14 Q Well --

15 A -- there was no -- there's nothing
16 nefarious here.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 MR. STANNER: I'm sorry, Mr. Hawal, are
10 you really doing an inquiry about whether or not
11 this man wants to spend time with his
12 grandchildren? Is that how you want to end the
13 day?

14 MR. HAWAL: Is -- is that on objection
15 or -- I don't understand.

16 MR. STANNER: Yeah, it's a standing
17 objection to the line of inquiry, yes.

18 MR. HAWAL: Thank you.

19 MR. STANNER: How much time is left on
20 the record?

21 THE VIDEOGRAPHER: 37 minutes, 50 -- 58
22 seconds.

23 MR. STANNER: You've got eight seconds.

24 MR. HAWAL: Yeah, I'm waiting for an

1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

2 The undersigned Certified Shorthand Reporter
3 does hereby certify:

4 That the foregoing proceeding was taken before
5 me at the time and place therein set forth, at
6 which time the witness was duly sworn; That the
7 testimony of the witness and all objections made
8 at the time of the examination were recorded
9 stenographically by me and were thereafter
10 transcribed, said transcript being a true and
11 correct copy of my shorthand notes thereof; That
12 the dismantling of the original transcript will
13 void the reporter's certificate.

14 In witness thereof, I have subscribed my name
15 this date: January 21, 2019.

16

17

18 _____
LESLIE A. TODD, CSR, RPR

19 Certificate No. 5129

20 (The foregoing certification of
21 this transcript does not apply to any
22 reproduction of the same by any means,
23 unless under the direct control and/or
24 supervision of the certifying reporter.)

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2 Please read your deposition over carefully and
3 make any necessary corrections. You should state
4 the reason in the appropriate space on the errata
5 sheet for any corrections that are made.
6 After doing so, please sign the errata sheet
7 and date it.

8 You are signing same subject to the changes
9 you have noted on the errata sheet, which will be
10 attached to your deposition. It is imperative
11 that you return the original errata sheet to the
12 deposing attorney within thirty (30) days of
13 receipt of the deposition transcript by you. If
14 you fail to do so, the deposition transcript may
15 be deemed to be accurate and may be used in court.

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4 PAGE LINE CHANGE

5 _____

6 REASON: _____

7. _____

8 REASON: _____

9 _____

10 REASON: _____

12 REASON: _____

14 REASON: _____

16 REASON: _____

18 REASON: _____

20 REASON:

22 REASON:

24 REASON:

1 ACKNOWLEDGMENT OF DEPONENT

2 I, _____, do hereby
3 certify that I have read the foregoing pages, and
4 that the same is a correct transcription of the
5 answers given by me to the questions therein
6 propounded, except for the corrections or changes
7 in form or substance, if any, noted in the
8 attached Errata Sheet.

9
10 _____
11 GARY L. BOGGS DATE

12
13
14 Subscribed and sworn to
15 before me this
16 _____ day of _____, 20____.
17 My commission expires: _____
18 _____

19 Notary Public
20
21
22
23
24